

ANDREW M. MORSE (4498)  
R. SCOTT YOUNG (10695)  
SNOW, CHRISTENSEN & MARTINEAU  
10 Exchange Place, Eleventh Floor  
Post Office Box 45000  
Salt Lake City, Utah 84145  
Telephone: (801) 521-9000

*Attorneys for Defendant*

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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ANTHONY HESS,	)	<b>ORDER OF DISMISSAL WITH</b>
	)	<b>PREJUDICE AND UPON THE MERITS</b>
Plaintiff,	)	
	)	
vs.	)	
	)	No. 1:07 CV 149
SWIFT TRANSPORTATION CO., INC.,	)	
	)	Judge Dale A. Kimball
Defendant.	)	
	)	
	)	
	)	

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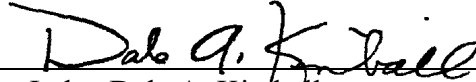
Based on the Stipulation and Motion of the parties, and good cause appearing, it is hereby  
ORDERED that plaintiff's Complaint and causes of action as to defendant be, and the same  
hereby is, dismissed with prejudice and upon the merits, each of the parties to bear their own costs  
incurred

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DATED this 13<sup>th</sup> day of January, 2009.

BY THE COURT:

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Judge Dale A. Kimball

Approved as to form:

RONALD W. PERKINS, P.C.

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Ronald W. Perkins  
Attorney for Plaintiff

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
NORTHERN DIVISION

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UNITED STATES OF AMERICA,  
Plaintiff,

vs.

JOSEPH ARTHUR HUMANN,  
Defendant.

MEMORANDUM DECISION AND  
ORDER GRANTING MOTION TO  
CONTINUE TRIAL AND  
EXCLUDING TIME

Case No. 1:08-CR-64 TS

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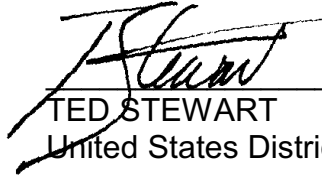
Based upon Defendant's Motion the Court finds that to deny the continuance would deny counsel for the Defendant the reasonable time necessary for effective preparation for trial, taking into account the exercise of due diligence. The Court further finds that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial. It is therefore

ORDERED that Defendant's Motion to Continue (Docket No. 18) is GRANTED and the trial set for January 5, 2009, is vacated and the three-day jury trial is re-set for March 30, 2009, at 8:30 a.m. It is further

ORDERED that the time from the filing of the Motion to the date of the new trial is excluded from the speedy trial calculation.

DATED January 12, 2009.

BY THE COURT:

  
\_\_\_\_\_  
TED STEWART  
United States District Judge

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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, NORTHERN DIVISION**

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UNITED STATES OF AMERICA,

Plaintiff,

v.

ROHN WANNER,

Defendant.

**ORDER TO CONTINUE TRIAL**

Case No. 1:08-CR-088 DAK

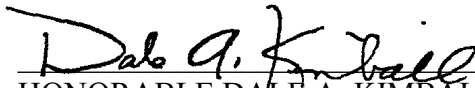
Honorable Dale A. Kimball

Based on the motion to continue trial filed by defendant in the above-entitled case, stipulation of the government, and good cause appearing;

It is hereby ORDERED that the trial previously scheduled for January 27, 2009, is continued to the 5<sup>th</sup> day of May, 2009, at 8:30 a.m. Pursuant to 18 U.S.C. § 3161(h), the court finds the ends of justice served by such a continuance outweigh the best interests of the public and the defendant to a speedy trial. More specifically, the court finds that the defense's need to review technical expert information from the government, to consult further with an explosives expert and to conduct further investigation involve complex matters involving technical expertise and are necessary for effective preparation for trial pursuant to 18 U.S.C. § 3161(h)(8)(B)(ii) & (iv). The time of the delay shall constitute excludable time under the Speedy Trial Act.

DATED this 13<sup>th</sup> day of January 2009.

BY THE COURT:

  
HONORABLE DALE A. KIMBALL  
United States District Court Judge

UNITED STATES DISTRICT COURT

NORTHERN

U.S. DISTRICT COURT

District of

UTAH

UNITED STATES OF AMERICA

V.

Victor Estrada-Gonzalez

FILED  
2009 JAN 13 P 3:25  
DISTRICT OF UTAH

JUDGMENT IN A CRIMINAL CASE

Case Number: DUTX 1:08CR000121-001

BY:

CLERK

USM Number: 15825-081

Lance C. Starr

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Indictment

☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.

☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
8 USC § 1326	Reentry of a Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_

☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

1/8/2009

Date of Imposition of Judgment

Signature of Judge

Clark Waddoups

Name of Judge

U.S. District Judge

Title of Judge

Date

1/13/2009

DEFENDANT: Victor Estrada-Gonzalez  
CASE NUMBER: DUTX 1:08CR000121-001

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

10 months, with credit for time served while in Federal custody.

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends incarceration in a facility near Utah to facilitate family visitation.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Victor Estrada-Gonzalez

CASE NUMBER: DUTX 1:08CR000121-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.



DEFENDANT: Victor Estrada-Gonzalez  
CASE NUMBER: DUTX 1:08CR000121-001

### **SPECIAL CONDITIONS OF SUPERVISION**

1) The defendant shall not illegally reenter the United States. In the event that the defendant should be released from confinement without being deported, he shall contact the United States Probation Office in the district of release within 72 hours of release. If the defendant returns to the United States during the period of supervision after being deported, he is instructed to contact the United States Probation Office in the District of Utah within 72 hours of arrival in the United States.

DEFENDANT: Victor Estrada-Gonzalez  
CASE NUMBER: DUTX 1:08CR000121-001

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ 0.00	\$ 0.00	
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Victor Estrada-Gonzalez  
CASE NUMBER: DUTX 1:08CR000121-001

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
SPA of \$100 is due and payable forthwith.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
NORTHERN DIVISION

LYNN K. MAURER,  
Plaintiff,

vs.

MICHAEL J. ASTRUE,  
Commissioner of Social  
Security,  
Defendant.

**AMENDED SCHEDULING ORDER**

Case No. 1:08-CV-128-TS-SA

Pursuant to the parties' joint request, as set forth in the Joint Statement of the Parties (Docket Entry #10), the court issues the following amended scheduling order. The parties' memoranda shall be due on the following dates, which were agreed upon and requested by the parties:

**PLAINTIFF:** February 20, 2009

**COMMISSIONER:** March 23, 2009

**PLAINTIFF'S REPLY (if any):** April 7, 2009.

DATED this 13th day of January, 2009.

BY THE COURT:



Samuel Alba  
United States Magistrate Judge

UNITED STATES DISTRICT COURT

FILED  
U.S. DISTRICT COURT

CENTRAL DIVISION

District of

UTAH JAN 13 A 11:36

UNITED STATES OF AMERICA  
V.

KENDALL ROSSEL SWENSON

**JUDGMENT IN A CRIMINAL CASE**  
(For Revocation of Probation or Supervised Release)

BY:

DEPUTY CLERK

Case Number: DUTX203CR000135-001

USM Number: 07002-081

Deirdre Gorman

Defendant's Attorney

**THE DEFENDANT:**

☒ admitted guilty to violation of condition(s) 1 of the Petition of the term of supervision.

☐ was found in violation of condition(s) \_\_\_\_\_ after denial of guilt.

The defendant is adjudicated guilty of these violations:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
1	Defendant arrested by Logan City Police on felony charges	8/17/2006
	of Theft of Property and Receiving Stolen Property.	

The defendant is sentenced as provided in pages 2 through 3 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has not violated condition(s) \_\_\_\_\_ and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Defendant's Soc. Sec. No.: 000-00-9386

Defendant's Date of Birth: 1963

Defendant's Residence Address:

1/13/2009

Date of Imposition of Judgment

Signature of Judge

The Honorable Ted Stewart

Name of Judge

U. S. District Judge

Title of Judge

1/13/2009

Date

Defendant's Mailing Address:

DEFENDANT: KENDALL ROSSEL SWENSON  
CASE NUMBER: DUTX203CR000135-001

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

1 year plus 1 day

☐ The court makes the following recommendations to the Bureau of Prisons:

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 2 p.m. on 2/27/2009

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_ with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: KENDALL ROSSEL SWENSON

CASE NUMBER: DUTX203CR000135-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

NONE

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☐ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is be a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

**Report and Order Terminating Supervised Release  
Prior to Original Expiration Date**

**UNITED STATES DISTRICT COURT**

**for the**

**DISTRICT OF UTAH**

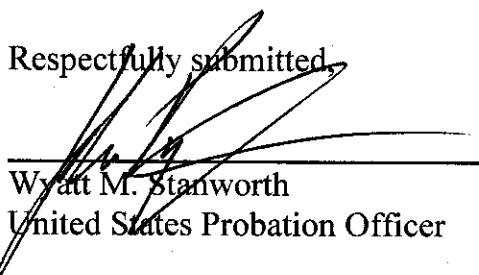
UNITED STATES OF AMERICA

v. Criminal No. 2:03-CR-00394-002-TS

PEGGY ANN PAUL

On January 21, 2004, the above named defendant was sentenced to serve a term of forty-six (46) months in the Bureau of Prisons custody and a term of thirty-six (36) months of supervised release. The defendant's supervised release period commenced on May 18, 2007. The defendant has complied with the rules and regulations of supervised release and is no longer in need of supervision. It is accordingly recommended the defendant be discharged from supervision.

Respectfully submitted,

  
Wyatt M. Stanworth  
United States Probation Officer

Pursuant to the above report, it is ordered that the defendant be discharged from supervision and that the proceedings in the case be terminated.

Dated this 13<sup>th</sup> day of January, ~~2008~~ 2009

  
Honorable Ted Stewart  
United States District Judge



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**IN THE UNITED STATES DISTRICT COURT DISTRICT OF UTAH  
CENTRAL DIVISION**

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**YVONNE FLITTON,**

**Plaintiff,**

**vs.**

**PRIMARY RESIDENTIAL MORTGAGE,  
INC.**

**Defendant.**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER**

**2:03CV481DAK**

**Judge Dale A. Kimball**

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The Court conducted a Bench Trial in this matter on November 18 and 19, 2008. Plaintiff, Yvonne Flitton (“Flitton”), was represented at trial by Blake S. Atkin and John V. Mayer, of Atkin Law Offices. Defendant, Primary Residential Mortgage, Inc. (“PRMI”), was represented at trial by Darryl J. Lee and Richard J. Armstrong of Wood Crapo LLC. Having heard the testimony of the witnesses, considered the evidence, and heard and considered the arguments of counsel, and being fully advised, the Court enters the following Findings of Fact, Conclusions of Law, and Order.

**FINDINGS OF FACT**

1. Flitton was employed by PRMI from July 2000 through October 11, 2002. For the majority of her tenure at PRMI, Flitton was the head of PRMI’s Wholesale Division.
2. At the time Flitton was terminated, she claimed to have built a platform that was capable of handling at least double, and maybe three times the volume.
3. In her first full year at PRMI, she led the Wholesale Division to net earnings of \$1,000,000.00.

4. PRMI terminated Flitton's employment on October 11, 2002.

5. Prior to joining PRMI, Flitton was employed in the mortgage industry by a number of companies as outlined in the chart below:

EMPLOYER	EMPLOYMENT DATES
First Plus Freedom Mortgage	August 1995 to February 1999
High Gate Funding	February 1999 to July 1999
Meritage Mortgage	July 1999 to September 1999
Aames Home Loans	October 1999 to July 2000

6. At the end of Flitton's employment with First Plus Mortgage, she was earning \$8,000 to \$9,000 a month.

7. When Flitton was employed at High Gate Funding, she was paid between \$9,000 and \$10,000 a month.

8. In 1999, Flitton earned \$17,429.16 from Meritage Mortgage.

9. In 1999, Flitton earned \$14,945.94 from Aames Home Loans.

10. In 2000, Flitton earned \$43,043.28 from Aames Home Loans.

11. In 2000, Flitton earned \$41,771.68 from PRMI.

12. In 2001, Flitton earned \$142,815.48 from PRMI.

13. Within days of her October 11, 2002 termination, Flitton was negotiating with Kevin Gates, the owner of New Freedom Mortgage, to head-up a brand new Wholesale Division for New Freedom.

14. Flitton had six to eight negotiation sessions with Mr. Gates regarding this new position.

15. Flitton was formally hired by New Freedom on November 4, 2002, to head-up its new Wholesale Division. That new division would be dealing with the same types of loans that Flitton was managing while at PRMI.

16. As part of her negotiations, Flitton agreed to a compensation package which included a \$5,000 per month base salary, plus 25% of the profits of the Wholesale Division. Flitton understood that the 25% of profits portion of her compensation dealt with net profits after the loans that the Wholesale Division obtained were sold to investors.

17. Very shortly after Flitton began her new position as head of the Wholesale Division at New Freedom, she hired Wendy Miller and Mike Simmons, two of her lieutenants from PRMI. Shortly thereafter, she hired a number of other employees who had worked for her at PRMI in the Wholesale Division there.

18. When taking the position at New Freedom, Flitton knew that it would take a number of months to start generating net profits of the Wholesale Division. She agreed to take home smaller paychecks during the formative months because of the potential income once the Wholesale Division built its platform and started selling loans.

19. After heading-up the new Wholesale Division at New Freedom for almost three months, Flitton resigned that position effective January 31, 2003.

20. Flitton gave several reasons why she quit her job as the head of the new Wholesale Division at New Freedom. Flitton stated that she left because of the business model created by New Freedom's senior managers and the restrictions on the types of loans that her division could sell. She claims that New Freedom management shifted her focus to second mortgages and prohibited out of state broker business. This shift would require many more loans for the division to successfully reach the limits she had discussed with Gates. She also stated that New Freedom's

senior management did not like the subprime loans with which she was dealing. Flitton felt that it was a battle everyday to get what she needed to do her job. Moreover, Flitton testified that after her experience at PRMI she was insecure and she did not feel that she could question management decisions.

21. Ten days later after Flitton quit, Flitton was rehired by New Freedom as the head of her own retail net branch office for New Freedom. As a retail net branch, Flitton began dealing with all types of paper, including conventional, government, subprime and A paper, as well as originating loans in other states. She actually began going out to borrowers directly with respect to loans.

22. This new job with New Freedom was in an area where Flitton had little experience. She had not done retail loans since 1994. As the head of a retail net branch for New Freedom, Flitton was paid on a straight commission basis, but she did receive a \$5,000 a month draw against commissions.

23. On June 11, 2003, New Freedom sent Flitton a letter terminating her for problems associated with an audit. Flitton did not want to dispute the audit findings. She spoke to Kevin Gates and he agreed to let her resign.

24. Immediately after Flitton left New Freedom in June 2003, Flitton went to work for her husband's company, American Residential Mortgage. American Residential Mortgage was a small mortgage company that dealt primarily with the retail side, making direct contacts with borrowers and finding them mortgage loans.

25. Flitton agreed to work for American Residential for \$2,500 a month base salary plus 25% of the company's profits. Although she was an owner, the company elected not to

distribute any profits to Flitton or other owners. In addition to her monetary compensation, American Residential paid for two vehicles, one for Flitton and one for her husband.

26. Between June 2003 and February 2004, Flitton looked for employment on the internet but she never contacted anyone.

27. Flitton worked at American Residential Mortgage from June 2003 until September 2005. During some of her employment with American Residential, Flitton was not emotionally capable of working a full, forty-hour week. She testified that she intended to put in a full day everyday but sometimes she emotionally could not do it.

28. In October 2005, Flitton went to work for Wells Fargo, where she worked for only a short time. She then looked for a company with better benefits. She gained employment at Homecomings Financial in February 2006. She stayed at Homecomings Financial until August 2007. During that time, she obtained a mortgage brokers license.

29. After obtaining her mortgage brokers license, she worked for American Residential again to get experience with a few loans. She then obtained a position with Envision Lending in January 2008. At the time of trial, Flitton was still employed at Envision Lending and her salary had risen to \$30,000 per month.

30. Between October 11, 2002 and the date of trial, Flitton has been employed by six different companies, namely, New Freedom Mortgage, American Residential Mortgage, Wells Fargo Financial, Homecomings Financial, American Residential Mortgage a second time, and Envision Lending.

31. After October 11, 2002, PRMI acquired information that it claimed at trial would have resulted in Flitton's termination had PRMI known of the information on October 11, 2002.

32. On December 17, 2002, GMAC Residential Funding (“RFC”) notified PRMI and its Wholesale Division that it had “significant concerns” with respect to a residential loan to an individual named Zakee Ali (“Ali Loan”).

33. RFC informed PRMI that “[a]t the time of origination the borrower indicated she would occupy the subject property at the time of origination” and that through RFC’s investigation it was discovered the borrower has not occupied the subject property as her primary residence.”

34. Before the Ali Loan was offered to RFC for purchase, PRMI’s Wholesale Division offered the loan to Countrywide Home Loans (“CWHL”). CWHL, however, declined to purchase the loan because the property was “non-owner occupied” when it closed as an “owner occupied” property.

35. When the Ali Loan was rejected by CWHL and sent back to PRMI’s Wholesale Division, Flitton wrote on an internal “Declination Summary” that she would now send the loan “to New Century for kicks.” The Ali Loan, however, was sold to RFC instead of New Century. RFC was a big investor in PRMI’s wholesale division. The Ali Loan was sold to RFC as an “owner-occupied” property loan, despite CWHL’s statement that the loan was not owner-occupied.

36. Kori Seely, Vice President of Quality Control at PRMI provided no direct evidence that Flitton was involved in redirecting the loan to RFC. She stated only that Flitton had seen the loan after it returned from CWHL and that she had stated that the loan should be sent to New Century. David Zitting, Chief Executive Officer and President of PRMI, testified that Flitton’s handwriting on the declination summary, PRMI05729, indicates that Flitton was responsible for

redirecting the Ali Loan once it was rejected by CWHL. However, there was no direct evidence that she personally redirected the loan to RFC.

37. David Zitting testified that had he known about Flitton's conduct in relation to the Ali Loan prior to October 11, 2002, PRMI would have terminated Flitton's employment on that basis alone. The court, however, does not find his testimony convincing. Substantial evidence was presented that similar mistakes on loan documents were made by several employees and employees were not immediately terminated for the mistakes. Flitton credibly testified that it would be impossible to run the division and oversee every detail of every loan. The testimony presented did not support a finding that an immediate termination would have occurred.

38. PRMI presented other testimony that prior to October 11, 2002, Flitton signed an indemnification agreement with CWHL in relation to a residential loan to an individual named Robert Bradley ("Bradley Loan"). Prior to October 11, 2002, the only employee at PRMI authorized to sign indemnification agreements with investors was David Zitting.

39. After Flitton signed the indemnification agreement and after her employment was terminated, on February 19, 2003, CWHL notified PRMI that the Bradley Loan was closed in violation of the investor's guidelines governing seller contributions. The investor's repurchase notice to PRMI stated: "The HUD-1 Settlement Statement indicated that the seller paid \$5,000 (or 5.6%) of the borrower's closing cost" when the investor's guidelines "limits the maximum seller contributions to 3%."

40. Investor guidelines are set by investors which set forth the investor's underwriting practices, "basically what types of loans they are going to take, what the parameters are for approval of those loans." The guidelines are published. As the head of the PRMI's Wholesale

Division, Flitton had the ultimate responsibility in relation to knowing what the investor's guidelines were on seller contributions prior to authorizing the payment of those contributions.

41. Flitton expressly authorized the payment of "up to 6% in closing costs" to be paid by the seller. Flitton's handwriting appears on the internal loan approval sheet.

42. David Zitting testified that he did not know Flitton had signed the indemnification agreement in relation to the Bradley Loan. Steve Chapman, however, signed the check for the indemnification agreement. Therefore, upper management was aware of the agreement. The court does not find that Flitton's conduct in signing the indemnification agreement in relation to the Bradley Loan was a material breach of her employment agreement with PRMI. The court also does not find that Flitton's conduct in relation to the Bradley Loan was severe enough to warrant her immediate termination had Zitting known about it prior to October 11, 2002.

43. In July 2004, Scott Peterson, the Vice President of the Wholesale Division, left the company, and PRMI consolidated and merged the position under the authority and responsibility of Sadie Young, PRMI's Vice President of Retail. David Zitting also assumed additional oversight over the Wholesale Division. The Vice President of Wholesale position was not filled. There is, however, no evidence regarding how long the position would have remained had Flitton remained with the company.

44. In addition, there is no evidence as to whether she would have been reassigned to another position within PRMI when PRMI closed its Wholesale Division on December 31, 2005 because of lower yields and ever-increasing risks.

45. Flitton has suffered from anxiety and depression for many years, dating back to at least 1992 when she was first prescribed with anti-depressants. In 1996, prior to joining PRMI, Flitton suffered anxiety attacks, which at times, resulted in debilitating chest pain, dizziness, head



aches, shortness of breath and even distortions in hearing, loss of focus and ability to maintain attention. In December 1999, Flitton visited her doctor, Dr. Boam, who diagnosed Flitton with both depression and anxiety.

46. From at least 1992 until the present, Flitton has been prescribed with and has taken various medications for anxiety and depression, including without limitation, Prozac, Paxil, Xanax, Wellbutrin, Zoloft, Topomax and Lexapro.

47. In the summer of 2002, before PRMI terminated her, Flitton believed that the causes of her anxiety and depression were centered on the fact that she was the sole breadwinner, responsible for supporting a family of ten.

48. Flitton also testified that she was emotionally and psychologically affected by her termination from PRMI. She lost confidence in her ability to get a job given that she had to inform potential employers that she was terminated. She also began having difficulties trusting supervisors at work.

49. Other than receiving prescription medications from her family physicians, Flitton did not see a medical professional who specialized in these illnesses until September 2003, when she began seeing a clinical social worker. Flitton first started suffering debilitating symptoms which she attributed to her depression in approximately May/June 2003.

50. Flitton prepared an estimate of her alleged damages, making various assumptions regarding projected sales at PRMI's Wholesale Division after her termination. Flitton made calculations through 2022.

51. Flitton had available to her PRMI's actual sales data for the Wholesale Division from the date of her termination through December 2005, but she did not use them because they

would not reflect the work she believed that she could perform in the position. She was replaced by someone who had been her junior while at PRMI and she was not impressed with his work.

52. Flitton, through her attorneys, provided her calculations to her financial damages expert, Richard Free. Free used twenty years in calculating his front pay analysis. The court, however, finds that he did not provide an adequate basis for using twenty years. He did not consider Flitton's age, how often baby boomers change jobs, or how often senior managers at mortgage companies change jobs. In addition, he did not analyze or evaluate Flitton's employment history before she joined PRMI. Free was not aware that Flitton had worked for at least three different mortgage companies in the two years prior to joining PRMI.

53. Although PRMI challenges the work Free did, Free testified that he recomputed Flitton's numbers and performed his own analysis. Free testified as to the basis for some of the computations.

54. Free's report suffers from some faulty methodology. Free did not consider economic trends, such as the risks associated with growth and profitability or the probability of achieving his projected growth trends. Free's report failed to consider, explain, or justify product trends, such as the subprime demise. His use of the CPI as a "discount rate" is not an appropriate discount rate since it only measures inflation to consumers.

55. While Free's report did not consider post termination events such as PRMI's elimination of the position of Vice President of Wholesale in July, 2004 and the ultimate shut down of the Wholesale Division at PRMI at the end of 2005, there is no evidence that either event would have resulted in Flitton's loss of employment with PRMI had she still been with the company.

56. F. Wayne Elggren, PRMI's financial damages expert, prepared a comprehensive damages analysis, evaluating Flitton's earnings history and potential, using the actual sales data of PRMI's Wholesale Division after Flitton's termination.

57. Elggren first calculated Flitton's historic earning capability, by examining what she earned during the four years prior to her termination, namely 1998 through 2001. Using Flitton's own testimony and documentation, Elggren determined that Flitton was capable of earning \$111,626 a year in her chosen profession. This amount, however, did not take into consideration the effects of Flitton's termination. As was demonstrated through the evidence in this case, a termination can have serious impacts on the earning capabilities of an individual. The person is put in a position of quickly finding replacement employment and they also have the stigma of explaining a termination to potential employers. Elggren failed to factor any of these considerations into his historic earning capability. Therefore, the court finds that Elggren's calculation of Flitton's historic earning capability is inflated by fifteen percent.

58. Compensation for mortgage banker executives typically increased during the relevant time period by 7.4% over the prior year, so Elggren increased Flitton's earning capability by that percentage for each year after her termination. The court finds this increase reasonable except for the fact that Elggren applied it to Flitton's historic compensation but did not similarly apply it to what she would have earned at PRMI. The court believes that it should have been applied equally.

59. Elggren reviewed Flitton's tiered commission structure in effect at the time of her termination and evaluated it against the actual loan sales for PRMI's Wholesale Division from October 2002 through December 2005. Using the actual loan sales data, as well as Flitton's tiered commission structure, Elggren calculated the commissions Flitton would have earned on actual

loan sales before the entire Wholesale Division was closed on December 31, 2005. The actual loan sales, however, are not reflective of Flitton's work. While the court does not find that the actual sales should be entirely disregarded because they reflect market conditions, there was evidence that she was a better manager and more productive worker than the person who replaced her. Therefore, the court believes that the actual sales figures would be accurate for purposes of the damages calculation if they were increased by ten percent. This increase also offsets Elggren's failure to equally apply the 7.4% increase to Flitton's expected compensation at PRMI while applying it to her historic compensation.

60. Elggren then evaluated the commissions Flitton would have earned from her termination until December 31, 2005 at PRMI, added her \$5,000 base salary, and deducted from that sum the historic compensation earnings Flitton could and should have earned post termination. He then calculated Flitton's cumulative lost compensation resulting from her termination at PRMI for all dates between her termination date of October 11, 2002 through the closure of PRMI's Wholesale Division on December 31, 2005.

61. Again, Elggren's analysis of what Flitton should have been able to make failed to consider the difficulties she faced in finding another management level position in the industry once Flitton had to inform potential employers that she was terminated from PRMI. The evidence at trial demonstrated that Flitton struggled to find something that matched the position she was in at PRMI because she was terminated. The court believes that this struggle was not a failure to mitigate damages but rather the result of her inappropriate termination.

62. Flitton's employment at New Freedom as head of its new Wholesale Division was not comparable to her position at PRMI. She was not in management, she had no employees, there was no business model in place, and the pay was lower. Flitton's compensation package

involved significant investment and risk in building the new division. She took the position because she was desperate for a new job and needed at least a base salary of \$5,000 per month.

63. While PRMI criticizes the positions of employment that Flitton obtained after her termination, the court finds that Flitton used whatever skill sets she had in trying to find employment. PRMI seeks a finding that Flitton chose a new career, but each of her positions are within the same industry.

64. Flitton testified that experience working as a sales executive after having a management position was hard as a matter of pride. Nonetheless, she has broadened her experience within the industry and has obtained a mortgage broker's license which will benefit her in the long term. In addition, with her mortgage broker's license, her current salary is exceeding her salary at PRMI. Although Flitton's termination may have hampered her short term ability to find employment, there is no evidence that it continues to be a stigma.

65. The court finds that Flitton is entitled to back pay damages between her termination from PRMI on October 11, 2002 and the time that she received her mortgage broker's license in August 2007. She obtained her mortgage brokers license at approximately the same time that the subprime industry ended. PRMI had closed her Division in December 2005. While the court believes that had she been employed with PRMI at the time that she may have been moved to other type of work, she still may have also chosen to gain her mortgage broker's license and move to another employer. Prior to obtaining her employment, Flitton switched employers often. While she testified that she intended to remain at PRMI because it was her dream job, the court finds that changes in the market may have led her to find other employment by August 2007. Since Flitton obtained her mortgage broker's license, she has been able to increase her salary to a level that is comparable, or exceeds, what she would have been making at PRMI.

## CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Court makes the following conclusions of law:

1. The burden of proof in this case is on the Plaintiff. Flitton has proven by a preponderance of the evidence that she is entitled to back pay damages, but she has not proven that she is entitled to front pay damages.
2. The first jury trial in this matter resulted in a verdict finding that PRMI's termination of Flitton's employment on October 11, 2002, was retaliatory. Nothing in the jury verdict of the second trial diminishes from the first jury's finding of retaliation. The second jury did not make a finding that Flitton's termination was based on legitimate, nondiscriminatory reasons. The second jury merely found that the termination was not discriminatory. Because PRMI's termination of Flitton was retaliatory, she is entitled to an award of back pay and/or front pay at the discretion of the court.
3. A plaintiff in a Title VII action must take all reasonable steps to mitigate her damages. One of the principal requirements is that a plaintiff must seek comparable employment. *Ford Motor Co. v. EEOC*, 458 U.S. 219, 231, 102 S. Ct. 3057, 3065 (1982); *Cleveland Branch, NAACP v. City of Parma*, 263 F.3d 513, 530 n.17 (6<sup>th</sup> Cir. 1982); *Heilbling v. Unclaimed Salvage and Freight Co., Inc.*, 489 F. Supp. 956, 963-64 (E. D. Pa. 1980).
4. A plaintiff who is entitled to back pay damages may be entitled to compensation for the period between the termination date and the date she obtains comparable replacement employment. Once comparable employment is found, the damages cease. *Ford Motor Co.*, 458 U.S. at 234-35; *Sims v. Mme. Paulette Dry Cleaners*, 638 F. Supp. 224, 230 (S.D.N.Y. 1986).

5. The court finds that Flitton's termination on October 11, 2002, caused her serious difficulties in trying to find comparable employment. Flitton sought and obtained many new positions in her attempts to find comparable employment. Therefore, she mitigated her damages to the extent that she could given the circumstances. The court has found that none of her subsequent positions were comparable until she began at her current position with Envision Lending.

6. Flitton voluntarily quit her job as the head of New Freedom's Wholesale Division on January 31, 2003. Flitton was not fired at that time, nor was the business closed. Her decision to quit a position that was not comparable to her position at PRMI, however, does not constitute a "willful loss of earnings." After making that decision, she steadily continued to find employment. Flitton's subsequent positions of employment were not comparable to her position at PRMI. Again, the court notes that she experienced difficulty as a result of the stigma of being terminated and the emotional distress the termination caused her. These subsequent positions, however, were consistent with her experience, some taught her additional skills that are valuable within the industry, and she continued to progress within the industry. The court cannot conclude that she removed herself from the industry and attempted to begin a new career until such time as she gained her mortgage broker's license.

7. Therefore, the court concludes that Flitton is entitled to back pay damages for the period between her termination on October 11, 2002 and August 2007 when she gained her mortgage broker's license and began seeking employment in that regard. Her mortgage broker's license enabled her to gain her current position with Envision Lending where she has reached an income level superior to PRMI.

8. The court finds no basis for awarding front pay damages. Flitton is currently in a position that exceeds her earning potential at PRMI. While she testified that she does not enjoy the position as much as PRMI, she has valuable experience, broad skills within the industry, and a mortgage broker's license. The court also finds that any stigma that kept her from finding employment in the few years after her termination has ended. Moreover, the demise of the subprime industry would have likely impacted her even if she had remained at PRMI. The industry changes coupled with Flitton's transient employment history prior to joining PRMI, suggests that Flitton would have likely left PRMI during the subprime crisis. The court finds no basis for finding that Flitton will suffer damages from her termination into the future. Therefore, the court denies an award of front pay damages.

9. Although PRMI has challenged the expert report of Richard Free under Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure, the court declines to strike the report. The court has considered it and given it the weight it believes it warrants. The court concludes that Wayne Elggren's financial damages report complies with Rule 26 of the Federal Rules of Civil Procedure, and the court has considered it in calculating Flitton's damages.

10. The court has calculated Flitton's back pay damages by adding ten percent to Flitton's PRMI compensation from October 2002 to December 2005. The court has also decreased Flitton's historic compensation by fifteen percent for the reasons provided in the findings of fact. For Flitton's PRMI compensation from December 2005 until August 2007, the court has added ten percent to the compensation she would have received on sales figures of \$14,482,693. That sales figure is PRMI's sales figure from October 2005, which the court finds to be the average sales month in the six months prior to the closure of PRMI's Wholesale Division. Therefore, her PRMI compensation would be \$16,506.60. For Flitton's historic



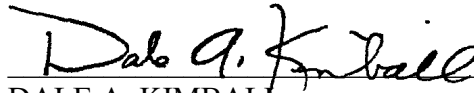
compensation from December 2005 until August 2007, the court has used an average of Flitton's actual compensation for those months, which equals \$12,022.05. Based on these calculations, the court the court awards Flitton back pay damages from October 2002 until August 2007 in the amount of \$304,703.05.

**ORDER**

After considering all of the evidence and the law as it applies to this case, the court directs the Clerk of Court to close the case and enter judgment against PRMI and in favor of Plaintiff, Yvonne Flitton, in the amount of \$354,703.05, which represents back pay from October 11, 2002, the date of her termination, and August 2007, and \$50,000 in emotion distress damages awarded to plaintiff by the first jury in this matter.

DATED this 13<sup>th</sup> day of January, 2009.

BY THE COURT:

  
\_\_\_\_\_  
DALE A. KIMBALL  
United States District Judge

BRETT L. TOLMAN, United States Attorney (#8821)  
185 South State Street, #400  
Salt Lake City, Utah 84111  
Telephone: (801) 524-5682

CHAD L. PLATT, Special Assistant United States Attorney (#8475)  
111 East Broadway, Suite 400  
Salt Lake City, Utah 84111  
Telephone: (801) 366-7862  
Attorneys for the United States of America

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**IN THE UNITED STATES DISTRICT COURT**  
**DISTRICT OF UTAH, CENTRAL DIVISION**

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UNITED STATES OF AMERICA,  
  
Plaintiff,

-vs-

MICHAEL JOHN NIKOLS,  
  
Defendant.

FINDINGS AND ORDER EXCLUDING  
TIME FROM APPLICABILITY OF THE  
SPEEDY TRIAL ACT

Case No. 2: 04 CR 786 CW-DN

MAGISTRATE JUDGE DAVID NUFFER

THE ABOVE CAPTIONED MATTER came before this Court for a Scheduling Conference on December 18, 2008. Defendant Nikols was represented by his counsel, William B. Parsons and Ronald J. Yengich. The United States was represented by Chad L. Platt, Special Assistant United States Attorney. The Honorable David Nuffer, United States District Court Magistrate Judge, presided. Based upon oral representations regarding availability of defense counsel, and discovery, and being fully advised in the premises, good cause appearing therefore, the Court now makes and enters the following Findings and Order:

### **Findings of Fact**

1. An Order Setting Aside Guilty Plea was entered in this matter on October 15, 2007 pursuant to 28 U.S.C. § 2255.

2. Discovery in this matter is voluminous and consists of wiretap, closed circuit television monitoring, pen register and trap and trace devices, police reports, search warrants, controlled substances and toxicology reports, photographs, statements of potential co-defendants and co-conspirators, and intercepted telephone calls.

3. The discovery consists of several thousands of pages of documents.

4. The discovery consists of several hundred intercepted telephone conversations.

5. The defendant is not in custody.

6. Defendant Nikols has retained two attorneys: William B. Parsons III and Ronald J. Yengich, whose trial schedules were addressed on the record.

7. The ends of justice are now served by setting a trial in this matter, and excluding all time since the Order Setting Aside Guilty Plea was entered in this matter, up to and including the date of the trial of this matter, from the Speedy Trial Act time requirements, the ends of justice being outweighed by the best interests of the public and the defendant in a speedy trial.

8. The ends of justice will be and are served by excluding all time up to and including the date of the trial of this matter, June 22, 2009, from the Speedy Trial Act time requirements, in that the delay and exclusion of time is necessary and appropriate:

a) to allow defense counsel to fully prepare for possible negotiations, pretrial proceedings, and for trial;

b) to allow the voluminous discovery and evidence which forms the basis of this case to be produced and managed in an intelligible and useful manner;

c) the failure to exclude time will result in a miscarriage of justice;  
and

d) failure to exclude time will unreasonably deny the Defendant a reasonable time necessary for effective case evaluation, pretrial proceedings and trial preparation, and to effectuate the continuation of counsel without interruption.


BASED UPON THE FOREGOING FINDINGS OF FACT, THE COURT MAKES AND ENTERS THE FOLLOWING ORDER:

**IT IS HEREBY ORDERED:**

1. All time since October 15, 2007, the date an Order Setting Aside Guilty Plea was entered, up to and including the trial that is now scheduled for June 22, 2009, is excluded from the Speedy Trial Act time requirements, pursuant to 18 U.S.C. §3161(h)(1)(A), (h)(1)(F), (h)(1)(G), (h)(1)(J), (h)(7), (h)(8)(A) and (h)(8)(B)(I-ii).

DATED this 13th day of January, 2009.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

DAVID NUFFER  
Magistrate Judge  
United States District Court

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing proposed **Findings and Order Excluding Time from Applicability of Speedy Trial Act** was mailed, via United States mail, this 13th day of January, 2009, first class postage prepaid, addressed to the following:

William B. Parsons III  
Counsel for Mr. Nikols  
P.O. Box 22626  
Salt Lake City, Utah 84122

Ronald J. Yengich  
Counsel for Mr. Nikols  
175 East 400 South, Suite 400  
Salt Lake City, Utah 84111

-s- Chad L. Platt

LAUREN I. SCHOLNICK (Bar No. 7776)  
ERIKA BIRCH (Bar No. 10044)  
STRINDBERG & SCHOLNICK, LLC  
785 North 400 West  
Salt Lake City, Utah 84103  
Telephone: (801) 359-4169  
Facsimile: (801) 359-4313  
Attorneys for Plaintiff

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UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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RANEE TADEMY

Plaintiff,

vs.

UNION PACIFIC CORPORATION (a Utah  
Corporation), and UNION PACIFIC  
RAILROAD COMPANY (a Delaware  
Corporation)

Defendants.

ORDER RELEASING BOND

Civil No. 2:04-CV-00670CW

Judge: Clark Waddoups

Based upon the Joint Motion to Release Bond filed by counsel for both parties, and good cause appearing, it is hereby ORDERED that the \$1,000.00 bond held by this Court be released to the following payee at the following address:

Strindberg & Scholnick, LLC  
785 North 400 West  
Salt Lake City, Utah 84103

Dated this 13<sup>th</sup> day of January, 2009



Judge Clark Waddoups

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**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**  
**CENTRAL DIVISION**

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**STICHTING MAYFLOWER  
MOUNTAIN FONDS and STICHTING  
MAYFLOWER RECREATION FONDS,**

**Plaintiffs and Counterclaim Defendants,**  
  
**vs.**

**THE CITY OF PARK CITY UTAH,**  
  
**and**

**UNITED PARK CITY MINES CO.**

**Defendants and Counterclaim Plaintiff,**  
  
**vs.**

**ARIE CORNELIS BOGERD, an  
individual and citizen of Hei-en Boeicop,  
Netherlands, MAYFINANCE CV, a  
Netherlands commanditaire vennotschap,  
STICHTING BEHEER MAYFLOWER  
PROJECT, a Netherlands Foundation,  
and JOHN DOES 1 THROUGH 100,  
limited partners of MAYFINANCE  
and/or Managing Directors of  
STICHTING BEHEER MAYFLOWER  
PROJECT,**

**Additional Counterclaim Defendants.**

**ORDER AFFIRMING MAGISTRATE  
ORDER AND EXTENDING  
DISCOVERY DEADLINES**

**Case No. 2:04CV925DAK**

**Judge Dale A. Kimball**

**Magistrate Paul M. Warner**

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Before the court is Counterclaim Defendants Objection to Magistrate's Order and  
Counterclaim Plaintiff United Park City Mines Company's ("United Park") Motion to Extend

Fact and Expert Discovery Deadlines. The court has carefully reviewed the memoranda submitted by the parties and, pursuant to District of Utah local rule 7-1(f), elects to determine the motion on the basis of the written memoranda without oral argument. *See* DUCivR 7-1(f).

This case is referred to Magistrate Judge Paul Warner pursuant to 28 U.S.C. § 636(b)(1)(A), which permits him to decide certain non-dispositive matters, subject to being set aside by the district judge if the determination is "clearly erroneous or contrary to law." *See* Fed. R. Civ. P. 72(a); DUCivR 72-2(a)(5). On October 21, 2008, Magistrate Judge Warner issued an Order Denying Motion for a Protective Order and Motion to Amend Scheduling Order. Counterclaim Defendants object to that Order on several grounds.

The court finds no basis for Counterclaim Defendants' objections. The Magistrate's Order did not infringe the Counterclaim Defendants' immunity. This court previously held that Counterclaim Defendants had immunity for statements made within municipal proceedings. That immunity, however, does not extend to the general time frame from when those proceedings were occurring nor does it preclude someone who participated in those proceedings from answering or participating in discovery in this matter with respect to activities that occurred outside of the municipal proceedings.

The court has already determined the immunity claim. No discovery is necessary on that point. The only discovery being conducted at this point in the litigation is discovery pertaining to activities outside the municipal proceedings. The court does not agree that the requested discovery is in search of presently unknown or unpled behavior. Although the court dismissed the counterclaim as it relates to statements within municipal proceedings, the court has found that the counterclaim also encompasses activities outside the municipal proceedings. The court finds



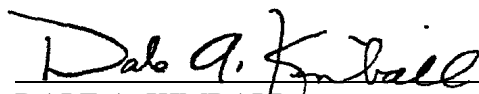
no basis for altering or reversing the Magistrate's Order. Accordingly, Counterclaim Defendants must respond to Counterclaim Plaintiff's discovery as directed in the Magistrate Judge's Order.

Counterclaim Plaintiffs filed a Motion to Extend Fact and Expert Discovery Deadlines for six months from the date of the court's order on the objections. The court agrees that the discovery period should be extended given the interruption in discovery that has occurred. Accordingly, the court sets a fact discovery deadline of July 15, 2009, and an expert discovery deadline of September 15, 2009.

Therefore, the court denies Counterclaim Defendants' objection to the Magistrate Judge's October 21, 2008 Order and affirms the Order in its entirety. The court further grants Counterclaim Plaintiff's Motion to Extend Fact and Expert Discovery Deadlines as detailed above.

DATED this 13<sup>th</sup> day of January, 2009.

BY THE COURT:

  
\_\_\_\_\_  
DALE A. KIMBALL  
United States District Judge

DEIRDRE A. GORMAN (#3651)  
Attorney for Defendant ZAMORA-NUNEZ  
205 26<sup>th</sup> Street, Suite 32  
Bamberger Square Building  
Ogden, Utah 84401  
Telephone: (801) 394-9700  
[dagorman@qwestoffice.net](mailto:dagorman@qwestoffice.net)

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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UNITED STATES OF AMERICA,	/	ORDER CONTINUING
		TRIAL SETTING
Plaintiff,	/	
vs.	/	
JOSE ZAMORA-NUNEZ a/k/a	/	
VICTOR MEZA-ZAMORA, et al.,	/	Case No. 2:05-CR-0231CW
Defendant.	/	

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BASED UPON the Motion to Continue Trial Setting filed by Defendant's counsel, stipulation of the parties and good cause appearing,

IT IS HEREBY ORDERED that the trial in this matter scheduled for January 12, 2009, be and is hereby continued. The ends of justice will be served in granting this continuance and a continuance outweighs the best interest of the public and the Defendant in a speedy trial.

That a failure to grant a continuance would result in a miscarriage of justice as defense counsel needs additional and adequate time to prepare for the defense in this matter.

That pursuant to Title 18 U.S.C. Sec. 3161(A)(a)(8)(b)(I)(ii)(iv), the trial date is continued

from January 12, 2009, for at least an additional 90 days from that date and shall be rescheduled to a date convenient for all parties.

DATED this 13<sup>th</sup> day of January, 2009.

BY THE COURT:



CLARK WADDOUPS  
United States District Court Judge

#### CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2009 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Veda M. Travis  
Assistant United States Attorney  
[cindy.dobyns@usdoj.gov](mailto:cindy.dobyns@usdoj.gov)

/s/ S. Mumford  
Secretary

DAVID N. WOLF (6688)  
Assistant Utah Attorney General  
MARK L. SHURTLEFF (4666)  
Utah Attorney General  
160 East 300 South, Sixth Floor  
P.O. Box 140856  
Salt Lake City, Utah 84114-0856  
E-mail [dwolf@utah.gov](mailto:dwolf@utah.gov)  
Telephone: (801) 366-0100

---

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF UTAH, CENTRAL DIVISION

---

DARREN C. BLUEMEL,

Plaintiff,

vs.

SCOTT V. CARVER, MIKE CHABRIES,  
BELLE BROUGH, JOHN GRAFF, DENISE  
EVANS, SID FULLMER, and John Does 1–  
5,

Defendants.

:

: ORDER GRANTING JOINT MOTION  
AND STIPULATION FOR EXTENSION  
: OF TIME TO FILE DEFENDANT JOHN  
GRAFF'S REPLY MEMORANDUM IN  
: SUPPORT OF HIS MOTION FOR  
SUMMARY JUDGMENT

: Case No. 2:06-CV-0032DB

: Judge Dee Benson

: Magistrate Judge Brooke C. Wells

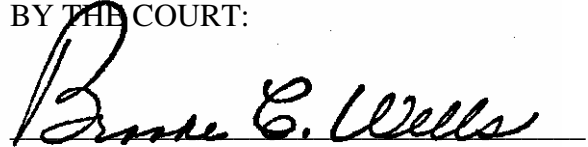
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Based upon the Joint Motion and Stipulation for Extension of Time to File Defendant John Graff's Reply Memorandum in Support of His Motion for Summary Judgment, and good cause appearing, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

The extension of time to file Defendant John Graff's Reply Memorandum in Support of His Motion for Summary Judgment shall be extended from January 20, 2009 to February 27, 2009.

DATED this 13th day of January, 2009.

BY THE COURT:

A handwritten signature in black ink, reading "Brooke C. Wells". The signature is written in a cursive style with a large, looped initial "B".

The Honorable Magistrate Judge Brooke C. Wells

CERTIFICATE OF SERVICE

I certify that on this 13<sup>th</sup> day of January, 2009, the forgoing ORDER GRANTING JOINT MOTION AND STIPULATION FOR EXTENSION OF TIME TO FILE DEFENDANT JOHN GRAFF'S REPLY MEMORANDUM IN SUPPORT OF HIS MOTION FOR SUMMARY JUDGMENT was electronically filed using the Court's CM/ECF system, and was served by the CM/ECF system to the following CM/ECF participants:

DAVID BROWN  
2880 West 4700 South  
West Valley City, Utah 84118  
Attorney for Plaintiff

/s/ Yvonne Schenk

FILED  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

2609 JAN 13 A 10:04  
DISTRICT OF UTAH  
BY: DEPUTY CLERK

O.P. MADSEN,

Plaintiff,

vs.

EPN, et al.,

Defendants.

TRIAL ORDER

Civil No. 2:06 CV 434 TC

The final pretrial conference in this matter is scheduled for February 2, 2009, at 3:00 p.m.

This case is set for a 3-day jury trial to begin on February 23, 2009, at 8:30 a.m. The attorneys are expected to appear in chambers at 8:00 a.m. on the first day of trial for a brief pre-trial meeting.

Counsel are instructed as follows:

**1. Court-Imposed Deadlines.**

The deadlines described in this order cannot be modified or waived in any way by a stipulation of the parties. Any party that believes an extension of time is necessary **must** make an appropriate motion to the court.

**2. Pretrial Order.**

At the pretrial conference, plaintiff is to file a joint proposed pretrial order which has been approved by all counsel. The pretrial order should conform generally to the requirements of DuCivR 16-1(3) and to the approved form of pretrial order which is reproduced as Appendix IV to the Rules of Practice for the U.S. District Court for the District of Utah.

### 3. Jury Instructions

The court has adopted its own standard general jury instructions, copies of which may be obtained from the court prior to trial. The procedure for submitting proposed jury instructions is as follows:

- (a) The parties must serve their proposed jury instructions on each other **at least ten business days before trial**. The parties should then confer in order to agree on a single set of instructions to the extent possible.
- (b) If the parties cannot agree upon one complete set of final instructions, they may submit separately those instructions that are not agreed upon. However, it is not enough for the parties to merely agree upon the general instructions and then each submit their own set of substantive instructions. The court expects the parties to meet, confer, and agree upon the wording of the substantive instructions for the case.
- (c) The joint proposed instructions (along with the proposed instructions upon which the parties have been unable to agree) must be filed with the court **at least five business days before trial**. All proposed jury instructions must be in the following format:
  - (i) An original and one copy of each instruction, labeled and numbered at the top center of the page to identify the party submitting the instruction (e.g., "Joint Instruction No. 1" or "Plaintiff's Instruction No. 1"), and including citation to the authority that forms the basis for it.
  - (ii) A 3.5" high density computer diskette containing the proposed instructions (and any proposed special verdict form), without citation to authority, formatted for the most current version of WordPerfect. Any party unable to comply with this requirement must contact the court to make alternative arrangements.
- (d) Each party should file its objections, if any, to jury instructions proposed by any other party **no later than two business days before trial**. Any such objections must recite the proposed instruction in its entirety and specifically highlight the objectionable language contained therein. The objection should contain both a concise argument why the proposed language is improper and citation to relevant legal authority. Where applicable, the objecting party **must** submit, in conformity with paragraph 3(c)(i) - (ii) above, an alternative instruction covering the pertinent subject matter or principle of law. Any party



may, if it chooses, submit a brief written reply in support of its proposed instructions **on the day of trial**.

(e) All instructions should be short, concise, understandable, and neutral statements of law. Argumentative instructions are improper and will not be given.

(f) Modified versions of statutory or other form jury instructions (e.g., Devitt & Blackmar) are acceptable. A modified jury instruction must, however, identify the exact nature of the modification made to the form instruction and cite the court to authority, if any, supporting such a modification.

#### **4. Special Verdict Form**

The procedure outlined for proposed jury instructions will also apply to special verdict forms.

#### **5. Requests for Voir Dire Examination of the Venire.**

The parties may request that, in addition to its usual questions, the court ask additional specific questions to the jury panel. Any such request should be submitted in writing to the court and served upon opposing counsel **at least ten business days before trial**.

#### **6. Findings of Fact and Conclusions of Law**

At the conclusion of all non-jury trials, counsel for each party will be instructed to file with the court proposed findings of fact and conclusions of law. The date of submission will vary, depending upon the need for and availability of a transcript of trial and the schedule of court and counsel. Findings of fact should be supported, if possible, by reference to the record. For that reason, the parties are urged to make arrangements with Mr. Raymond Fenlon, the Court Reporter, for the preparation of a trial transcript. Conclusions of law must be accompanied by citations to supporting legal authority.

As with proposed jury instructions and special verdict forms, the proposed findings of fact and conclusions of law should be submitted to chambers both in hard copy and electronic format using WordPerfect.

#### **7. Motions in Limine**

All motions in limine are to be filed with the court **at least five business days before trial**, unless otherwise ordered by the court.

## **8. Exhibit Lists/Marking Exhibits**

All parties are required to prepare an exhibit list for the court's use at trial. The list contained in the pretrial order will not be sufficient; a separate list must be prepared. Plaintiffs should list their exhibits by number; defendants should list their exhibits by letter. Standard forms for exhibit lists are available at the clerk's office, and questions regarding the preparation of these lists may be directed to the courtroom deputy, Mary Jane McNamee, at 524-6116. All parties are required to pre-mark their exhibits to avoid taking up court time during trial for such purposes.

## **9. In Case of Settlement**

Pursuant to DUCivR 41-1, the court will tax all jury costs incurred as a result of the parties' failure to give the court adequate notice of settlement. Leaving a message on an answering machine or sending a notice by fax is not considered sufficient notice to the court. If the case is settled, counsel must advise the jury administrator or a member of the court's staff by means of a personal visit or by person-to-person telephonic communication.

## **10. Courtroom Conduct**

In addition to the rules outlined in DUCivR 43-1, the court has established the following ground rules for the conduct of counsel at trial:

- (a) Please be on time for each court session. In most cases, trial will be conducted from 8:45 a.m. until 1:45 p.m., with two short (fifteen minute) breaks. Trial engagements take precedence over any other business. If you have matters in other courtrooms, arrange in advance to have them continued or have an associate handle them for you.
- (b) Stand as court is opened, recessed or adjourned.
- (c) Stand when the jury enters or retires from the courtroom.
- (d) Stand when addressing, or being addressed by, the court.
- (e) In making objections, counsel should state only the legal grounds for the objection and should withhold all further comment or argument unless elaboration is requested by the court. For example, the following objections would be proper: "Objection . . . hearsay." or "Objection . . . foundation." The following objection would be improper unless the court had requested further argument: "Objection, there has been no foundation laid for the expert's opinion

and this testimony is inherently unreliable.”

(f) Sidebar conferences will not be allowed except in **extraordinary** circumstances. If a sidebar conference is held, the court will, if possible, inform the jury of the substance of the sidebar argument. Most matters requiring argument should be raised during recess.

(g) Counsel need not ask permission to approach a witness in order to **briefly** hand the witness a document or exhibit.

(h) Do not greet or introduce yourself to witnesses. For example, “Good Morning, Mr. Witness. I represent the plaintiff in this case” is improper. Begin your examination without preliminaries.

(i) Address all remarks to the court, not to opposing counsel, and do not make disparaging or acrimonious remarks toward opposing counsel or witnesses. Counsel shall instruct all persons at counsel table that gestures, facial expressions, audible comments, or any other manifestations of approval or disapproval during the testimony of witnesses, or at any other time, are absolutely prohibited.

(j) Refer to all persons, including witnesses, other counsel, and parties, by their surnames and NOT by their first or given names.

(k) Only one attorney for each party shall examine, or cross-examine, each witness. The attorney stating objections during direct examination shall be the attorney recognized for cross examination.

(l) Offers of, or requests for, a stipulation shall be made out of the hearing of the jury.

(m) In opening statements and in arguments to the jury, counsel shall not express personal knowledge or opinion concerning any matter in issue. The following examples would be improper: "I believe the witness was telling the truth" or "I found the testimony credible."

(n) When not taking testimony, counsel will remain seated at counsel table throughout the trial unless it is necessary to move to see a witness. Absent an emergency, do not leave the courtroom while court is in session. If you must leave the courtroom, you do not need to ask the court's permission. Do not confer with or visit with anyone in the spectator section while court is in session.

DATED this 13th day of January, 2009.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL  
Chief Judge

MANNY GARCIA, #3799  
Attorney for Defendant  
150 South 600 East #5-C  
Salt Lake City, Utah 84102  
Telephone: (801) 322-1616  
Cell: (801) 201-5301  
Fax: (801) 322-1628

FILED  
U.S. DISTRICT COURT

2009 JAN 13 P 1:36

DISTRICT OF UTAH

BY:                       
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT,  
DISTRICT OF UTAH, CENTRAL DIVISION

---

UNITED STATES OF AMERICA,	:	ORDER TO CONTINUE SENTENCING
	:	
Plaintiff,	:	
	:	
vs.	:	Case NO.2:07-000111-001DB
	:	
MARTIN VANDERMERWE,	:	Judge DEE BENSON
	:	
Defendant.	:	

---

This matter came before the court pursuant to a motion from counsel for defendant to continue the sentencing in this matter which is currently scheduled for Tuesday, January 13<sup>th</sup>, 2009, and for good cause appearing,

IT IS HEREBY ORDERED

That the sentencing in this case be continued until the 25  
day of FEBRUARY, 2009, at the hour of 2:00pm  
Dated this 13 day of January, 2009.

BY THE COURT:

Dee Benson

DISTRICT COURT JUDGE

STEVEN B. KILLPACK, Federal Defender (#1808)  
ROBERT K. HUNT, Assistant Federal Defender (#5722)  
**UTAH FEDERAL DEFENDER OFFICE**  
Attorney for Defendant  
46 West Broadway, Suite 110  
Salt Lake City, Utah 84101  
Telephone: (801) 524-4010  
Facsimile: (801) 524-4060

---

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

---

UNITED STATES OF AMERICA,  
  
Plaintiff,

v.

JEFFREY D. CHAMBERLAIN,  
  
Defendant.

**ORDER TO CONTINUE TRIAL**

Case No. 2:07-CR-529 TS

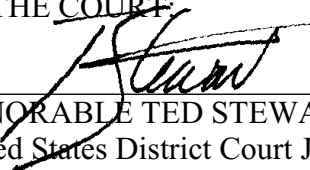
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Based on the motion to continue trial filed by defendant in the above-entitled case, and good cause appearing,

It is hereby ORDERED that the trial previously scheduled for January 12, 2009, is continued to the 1st day of June, 2009, at 8:30 a.m. Pursuant to 18 U.S.C. § 3161(h)(8)(B)(i), the court finds the ends of justice served by such a continuance outweigh the best interests of the public and the defendant to a speedy trial. Furthermore, the failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice. The time of the delay shall constitute excludable time under the Speedy Trial Act.

DATED this 13th day of January, 2009.

BY THE COURT

  
\_\_\_\_\_  
HONORABLE TED STEWART  
United States District Court Judge

FILED  
U.S. DISTRICT COURT

2009 JAN 13 A 11:37

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

BY: DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PEDRO JUAN DELACRUZ,

Defendant.

TRIAL ORDER

Criminal No. 2:07-CR-572

The final pretrial conference in this matter is scheduled for January 12, 2009 at 2:30 p.m.

This case is set for a 3-day trial to begin on February 2, 2009 at 8:30 a.m. The attorneys are expected to appear in court at 8:00 a.m. on the first day of trial for a brief pre-trial meeting.

Counsel are instructed as follows:

**1. Court-Imposed Deadlines.**

The deadlines described in this order cannot be modified or waived in any way by a stipulation of the parties. Any party that believes an extension of time is necessary **must** make an appropriate motion to the court.

**2. Jury Instructions**

The court has adopted its own standard general jury instructions, copies of which may be obtained from the court's website. The procedure for submitting proposed jury instructions is as follows:

- (a) The parties must serve their proposed jury instructions on each other **at least ten business days before trial**. The parties should then confer in

order to agree on a single set of instructions to the extent possible.

(b) If the parties cannot agree upon one complete set of final instructions, they may submit separately those instructions that are not agreed upon. However, it is not enough for the parties to merely agree upon the general instructions and then each submit their own set of substantive instructions. The court expects the parties to meet, confer, and agree upon the wording of the substantive instructions for the case.

(c) The joint proposed instructions (along with the proposed instructions upon which the parties have been unable to agree) must be filed with the court **at least five business days before trial**. All proposed jury instructions must be in the following format:

(i) An original and one copy of each instruction, labeled and numbered at the top center of the page to identify the party submitting the instruction (e.g., "Joint Instruction No. 1" or "Plaintiff's Instruction No. 1"), and including citation to the authority that forms the basis for it.

(ii) Email a copy of the proposed instructions to [utdecf\\_stewart@utd.uscourts.gov](mailto:utdecf_stewart@utd.uscourts.gov) as a Word or WordPerfect document. Include the case number in the subject line. Any party unable to comply with this requirement must contact the court to make alternative arrangements.

(d) Each party should file its objections, if any, to jury instructions proposed by any other party **no later than two business days before trial**. Any such objections must recite the proposed instruction in its entirety and specifically highlight the objectionable language contained therein. The objection should contain both a concise argument why the proposed language is improper and citation to relevant legal authority. Where applicable, the objecting party **must** submit, in conformity with paragraph 2(c)(i) - (ii) above, an alternative instruction covering the pertinent subject matter or principle of law. Any party may, if it chooses, submit a brief written reply in support of its proposed instructions **on the day of trial**.

(e) All instructions should be short, concise, understandable, and neutral statements of law. Argumentative instructions are improper and will not be given.

(f) Modified versions of statutory or other form jury instructions (e.g., Federal Jury Practice and Instructions) are acceptable. A modified jury instruction



must, however, identify the exact nature of the modification made to the form instruction and cite the court to authority, if any, supporting such a modification.

### **3. Verdict Forms**

The procedure outlined for proposed jury instructions will also apply to verdict forms.

### **4. Requests for Voir Dire Examination of the Venire**

The parties may request that, in addition to its usual questions, the court ask additional specific questions to the jury panel. The court's standard voir dire questions are available from the court's website. Any such request should be submitted in writing to the court and served upon opposing counsel **at least five business days before trial.**

### **5. Motions in Limine**

All motions in limine are to be filed with the court **at least five business days before trial**, unless otherwise ordered by the court.

### **6. Trial Briefs**

Each party should file its Trial Brief, if any, no later than five business days before trial.

### **7. Exhibit Lists/Marking Exhibits**

All parties are required to prepare an exhibit list for the court's use at trial. The list contained in the pretrial order will not be sufficient; a separate list must be prepared. Plaintiffs should list their exhibits by number; defendants should list their exhibits by letter. Standard forms for exhibit lists are available from the court's website, and questions regarding the preparation of these lists may be directed to the courtroom deputy, Sandy Malley, at 524-6617. All parties are required to pre-mark their exhibits to avoid taking up court time during trial for such purposes.

In addition, all parties are required to submit copies of their exhibits on a CD or a DVD for the court's use during trial.

### **8. Witness Lists**

All parties are required to submit separate witness list for the court's use at trial. The form is available from the court's website.

## 9. Courtroom Conduct

In addition to the rules outlined in the local rules, the court has established the following ground rules for the conduct of counsel at trial:

- (a) Please be on time for each court session. In most cases, trial will be conducted from 8:30 a.m. until 1:30 p.m., with two fifteen minute breaks. Trial engagements take precedence over any other business. If you have matters in other courtrooms, arrange in advance to have them continued or have an associate handle them for you.
- (b) Stand as court is opened, recessed or adjourned.
- (c) Stand when the jury enters or retires from the courtroom.
- (d) Stand when addressing, or being addressed by, the court.
- (e) In making objections and responding to objections to evidence, counsel should state the legal grounds for their objections with reference to the specific rule of evidence upon which they rely. For example, "Objection . . . irrelevant and inadmissible under Rule 402." or "Objection . . . hearsay and inadmissible under Rule 802."
- (f) Sidebar conferences are discouraged and will not be allowed except in **extraordinary** circumstances. Most matters requiring argument should be raised during recess. Please plan accordingly.
- (g) Counsel need not ask permission to approach a witness in order to **briefly** hand the witness a document or exhibit.
- (h) Address all remarks to the court, not to opposing counsel, and do not make disparaging or acrimonious remarks toward opposing counsel or witnesses. Counsel shall instruct all persons at counsel table that gestures, facial expressions, audible comments, or any other manifestations of approval or disapproval during the testimony of witnesses, or at any other time, are absolutely prohibited.
- (i) Refer to all persons, including witnesses, other counsel, and parties, by their surnames and not by their first or given names.
- (j) Only one attorney for each party shall examine, or cross-examine,


each witness. The attorney stating objections during direct examination shall be the attorney recognized for cross examination.

(k) Offers of, or requests for, a stipulation shall be made out of the hearing of the jury.

(l) When not taking testimony, counsel will remain seated at counsel table throughout the trial unless it is necessary to move to see a witness. Absent an emergency, do not leave the courtroom while court is in session. If you must leave the courtroom, you do not need to ask the court's permission. Do not confer with or visit with anyone in the spectator section while court is in session. Messages may be delivered to counsel table provided they are delivered with no distraction or disruption in the proceedings.

DATED this 12th day of January, 2009.

BY THE COURT:



TED STEWART  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

FILED  
U.S. DISTRICT COURT

2009 JAN 13 A 11:36

UNITED STATES OF AMERICA,

Plaintiff,

v.

DENNIS SUSAETA,

Defendant.

**ORDER TO CONTINUE  
JURY TRIAL AND PLEA CUT-OFF  
DATE**

Case No. 2:07 CR 785 TS

Based on the Motion to Continue the Jury Trial and Plea Cut-off date filed by defendant, Dennis Susaeta, in the above-entitled case, and good cause appearing, it is hereby:

ORDERED

The 2-day Jury Trial previously scheduled on January 12, 2009, is hereby continued to the 22nd day of January, 2009, at 9:30 a.m. Pursuant to 18 U.S.C. § 3161(h), the Court finds the ends of justice served by such a continuance outweigh the best interests of the public and the defendant in a speedy trial. Accordingly, the time between the date of this order and the new trial date set forth above is excluded from speedy trial computation for good cause.

Dated this 13th day of January, 2009.

BY THE COURT:

  
Ted Stewart  
United States District Court Judge

IN THE UNITED STATES DISTRICT COURT

~~FILED~~  
U.S. DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

2009 JAN 13 A 9:58

~~DISTRICT OF UTAH~~

BY: ~~DEPUTY CLERK~~

ABBY TISCARENO and  
GUILLERMO TISCARENO,

Case No. 2:07-CV-336 CW

Plaintiffs,

v.

**ORDER OF RECUSAL**

LORI FRASIER, et al.,

Defendants.

I hereby recuse from my referral in this case and request that the case be referred to  
another magistrate judge.

DATED this 12th day of January, 2009.

BY THE COURT:



Samuel Alba  
U.S. Magistrate Judge

*This case is now referred to Magistrate Judge David Nuffer.*

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

CHRISTIAN GILBERT TONY NADAL, Plaintiff,  vs.  NAOMI TSUMA, FAA counsel, et al., Defendants.	MEMORANDUM DECISION AND ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING CASE WITHOUT PREJUDICE  Case No. 2:07-CV-338 TS
--	---

This matter is before the Court for review of the Magistrate Judge's November 26, 2008 Report & Recommendation. In a thorough and detailed 12-page Report and Recommendation, the Magistrate set forth the reasons why service of process was insufficient, why leave to amend would be futile, and recommended dismissal for the failure to timely serve the Defendants.<sup>1</sup>

The Report and Recommendation notified Plaintiff he had ten days to file an objection to the Report and Recommendation and that the failure to file an objection may

---

<sup>1</sup>Docket No. 13.

constitute waiver of those objections on appellate review. Plaintiff has not filed any objection.

If, as in this case, there is no objection to the Report and Recommendation, the Court applies the “clearly erroneous” standard.<sup>2</sup> Under the clearly erroneous standard, this Court will affirm the Magistrate Judge’s ruling “unless it ‘on the entire evidence is left with the definite and firm conviction that a mistake has been committed.’”<sup>3</sup>

Having reviewed the Report & Recommendation, the Court finds it correctly states the applicable law. The Magistrate Judge’s findings of fact are fully supported by the record. Applying the same legal standards as did the Magistrate Judge, the Court agrees that Plaintiff failed to timely serve Defendants and that leave to amend would be futile.

Further, having reviewed the Complaint and the record, the Court finds that it would reach the same conclusion under de novo review. Accordingly, it is therefore

ORDERED that the Magistrate Judge’s Report and Recommendation (Docket No. 12) is ADOPTED IN FULL. It is further

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<sup>2</sup>28 U.S.C. § 636(b)(1) (requiring de novo review of only “those portions of the report or specified proposed findings or recommendations to which objection is made”) and Fed. R. Civ. P. 72(b) (3) (same).

<sup>3</sup>*Ocelot Oil Corp. v. Sparrow Industries*, 847 F.2d 1458, 1464 (10th Cir. 1988) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)).

ORDERED that Plaintiff's Complaint is DISMISSED WITHOUT PREJUDICE under  
Fed. R. Civ. P 4(m) for failure to timely serve Defendants.

DATED January 12, 2009.

BY THE COURT:



---

TED STEWART  
United States District Judge



Graden P. Jackson, #8607  
Jacob C. Briem, #10463  
William B. Ingram, #10803  
STRONG & HANNI  
3 Triad Center, Suite 500  
Salt Lake City, Utah 84180  
Telephone: (801) 532-7080  
Facsimile: (801) 596-1508  
*Attorney for Plaintiff*

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**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**  
**CENTRAL DIVISION**

---

MONA VIE, INC., a Utah corporation,

Plaintiff,

v.

THE TOTAL HEALTH WELLNESS  
GROUP, LLC, a Virginia limited liability  
company,

Defendant.

**ORDER GRANTING MOTION FOR  
DEFAULT JUDGMENT**

Case No.: 2:07-CV-976 TS

Judge: Ted Stewart

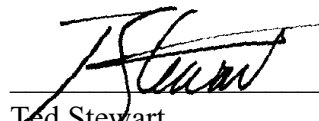
Plaintiff, Mona Vie, Inc. (“Mona Vie”) moved the Court to enter default judgment against Defendant The Total Health Wellness Group, LLC (“Total Health”) in the total amount of \$2,678.34:

1. The Clerk of the Court entered a Certificate of Default on July 14, 2008 (Docket No. 4) based upon Defendant Total Health’s failure to respond to Plaintiff’s Complaint.
2. The attorney’s fees and costs in this matter amount to \$2,678.34.

THEREFORE, IT IS HEREBY ORDERED that final Judgment be entered in the amount of \$2,678.34 against the Defendant Total Health in this case.

DATED this 12th day of January, 2009.

BY THE COURT



---

Ted Stewart  
United States District Judge



BRETT L. TOLMAN, United States Attorney (#8821)  
TIMOTHY B. BARNES, Special Assistant United States Attorney (#9664)  
Attorneys for the United States of America  
185 South State Street, Suite 300  
Salt Lake City, Utah 84111  
Telephone: 801.524.5682

---

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

---

UNITED STATES OF AMERICA,	:	2:08CR00253 TS
	:	
Plaintiff,	:	
	:	
vs.	:	ORDER
	:	
CARLOS VILLANUEVA-GARCIA,	:	
	:	
Defendant.	:	
	:	

---

Based on stipulation of the plaintiff and the defendant, the court enters the following:

**ORDER**

It is hereby ORDERED that counsel for Plaintiff and Defendant shall return to this Court on March 3, 2009 at 2:00 P.M. for a Status Conference. The Defendant's presence is not required on this date.

It is further, ORDERED that the time from January 9, 2009 until March 3, 2009 is excluded for purposes of speedy trial and the Court finds, pursuant to 18 U.S.C. § 3161 (h) (1)(F) and (8) (A) and (B) that pursuant to agreements by both parties and this Court, any ruling by this Court on Defendant's Motion to Suppress will be delayed in anticipation of a ruling by the United States Supreme Court in *Arizona v. Gant*, and the ends of justice served in this action outweigh the best interest of the public and the defendant in a speedy trial.

DATED this 13th day of January, 2009.

BY THE COURT:

A handwritten signature in black ink, appearing to read "T. Stewart", written over a horizontal dashed line.

TED STEWART  
United States District Court Judge

STEPHEN R. MCCAUGHEY - 2149  
Attorney for Defendant  
10 West Broadway, Suite 650  
Salt Lake City, Utah 84101  
Telephone: (801) 364-6474  
Facsimile: (801) 364-5014

FILED  
U.S. DISTRICT COURT

2009 JAN 13 P 2:53

DISTRICT OF UTAH

BY: DEPUTY CLERK

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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

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**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**BRETT McARTHER HAMMOND,**

**Defendant.**

:  
:  
:  
:  
:  
:

**FINDINGS AND ORDER**

**Case No. 2:08-CR-367 CW**

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Based on motion of the defendant and stipulation of the plaintiff, the court enters the following;

**FINDINGS**

1. If defendant's motion to continue were denied it would deny the defendant continuity of counsel.
2. Counsel needs additional time to effectively prepare for trial and consult with the defendant.
3. Counsel has exercised due diligence in preparing this case.
4. The ends of justice in granting a continuance outweigh the best interests of the public and the defendant in a speedy trial.

**ORDER**

It is hereby ORDERED that the trial date of January 12<sup>th</sup>, 2009, be stricken and the trial continued.

It is further, ORDERED that the time between January 12<sup>th</sup>, 2009, and the next trial date be excluded from the computation for the time for trial as described in 18 U.S.C. §3161.

DATED this 13<sup>th</sup> day of January, 2009.

BY THE COURT:



Honorable CLARK WADDUPS  
United States District Court Judge

*Reset for  
4/27/09*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 8<sup>th</sup> day of January, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

**Karin Fojtik**

karin.fojtik@usdoj.gov, julie.watters@usdoj.gov

**Cecelia Swainston**

cecelia.swainston2@usdoj.gov

/s/ Brittany Bagley

---

JEREMY M. DELICINO - 9959  
Attorney for Defendant  
10 West Broadway, Suite 650  
Salt Lake City, Utah 84101  
Telephone: (801) 364-6474  
Facsimile: (801) 364-5014

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	FINDINGS AND ORDER
	:	
v.	:	
	:	Case No. 2:08-CR-531 CW
ROBERT WAYLON BURTON,	:	
	:	
Defendant.	:	

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Based on motion of the defendant and stipulation of the plaintiff, the court enters the following;

FINDINGS

1. If defendant's motion to continue were denied it would deny the defendant continuity of counsel.
2. Counsel needs additional time to effectively prepare for trial and consult with the defendant.
3. Counsel has exercised due diligence in preparing this case.
4. The ends of justice in granting a continuance outweigh the best interests of the public and the defendant in a speedy trial.




ORDER

It is hereby ORDERED that the trial date of \*\*, be stricken and the trial continued.

It is further, ORDERED that the time between \*\*, and the next trial date be excluded from the computation for the time for trial as described in 18 U.S.C. §3161.

DATED this 13<sup>th</sup> day of January, 2009.

BY THE COURT:

  
\_\_\_\_\_  
Honorable Clark Waddoups  
United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_ day of January, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

Brittany Bagley  
s/\_\_\_\_\_

Aric Cramer (#5460)  
CRAMER LATHAM, LLC  
90 East 100 South, Suite 201  
St. George, Utah 84770  
Telephone (435) 627-1565  
Facsimile (435) 628-9876

Attorney for Defendant

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**IN THE UNITED STATES DISTRICT COURT**  
**DISTRICT OF UTAH, CENTRAL DIVISION**

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UNITED STATES OF AMERICA,

Plaintiff,

vs

JOHN BROWNE,

Defendant.

**ORDER EXTENDING DEADLINES  
AND CONTINUING JURY TRIAL AND  
EXCLUDING TIME**

Case No. 2:08-CR- 734 TS

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THIS COURT has reviewed the Stipulated Motion to Extend Deadlines on file and finds as follows. Discovery is on-going and complicated. The parties are engaged in on-going negotiations. As a result, additional time is necessary for effective preparation for trial. Under these circumstances, to deny the requested continuance would deny counsel for the defense and for the government effective time necessary for effective trial preparation, taking into account due diligence. The ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendants in a speedy trial pursuant to 18 U.S.C. § 3161(h)(8). It is therefore

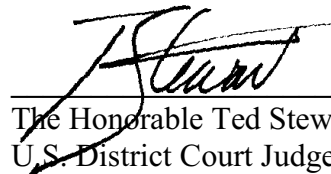
ORDERED that the Motion to Continue (Docket No. 19) is GRANTED and the trial set for January 22-23, 2009 at 8:30 is VACATED, and the plea bargain deadline is extended until April 8, 2009. It is further

ORDERED that a **two-day jury trial is set for April 20, 2009, at 8:30 a.m.** It is further

ORDERED that the time the time between the date of this order, and the date of the new trial date is excluded from the calculation under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(8). The trial scheduled in this matter for January 22, 2009 and January 23, 2009 is hereby vacated.

DATED this 13th day of January, 2009.

**BY THE COURT:**

  
\_\_\_\_\_  
The Honorable Ted Stewart  
U.S. District Court Judge

UNITED STATES DISTRICT COURT

Central

District of

Utah

UNITED STATES OF AMERICA

V.

Hector Villatoro-Acosta

JUDGMENT IN A CRIMINAL CASE

DISTRICT OF UTAH

Case Number: DUTX 2:08-cr-00744-001

USM Number: 64142-208

Viviana Ramirez

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) I-Indictment

☐ pleaded nolo contendere to count(s) which was accepted by the court.

☐ was found guilty on count(s) after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
8USC§1326	Re-Entry of a Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

1/8/2009

Date of Imposition of Judgment

Signature of Judge

Dee Benson

Name of Judge

U.S. District Judge

Title of Judge

1/12/2009

Date

DEFENDANT: Hector Villatoro-Acosta  
CASE NUMBER: DUTX 2:08-cr-00744-001

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

27 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends that the defendant be placed in Arizona, for family visitations. The Court also recommends that the defendant be placed where this medical condition (Hernia) can be addressed.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_  
☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_  
☐ as notified by the United States Marshal.  
☐ as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Hector Villatoro-Acosta  
CASE NUMBER: DUTX 2:08-cr-00744-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Hector Villatoro-Acosta  
CASE NUMBER: DUTX 2:08-cr-00744-001

### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall not reenter the United States illegally. In the event that the defendant should be released from confinement without being deported, he shall contact the United States Probation Office in the district of release within 72 hours of release. If the defendant returns to the United States during the period of supervision after being deported, he is instructed to contact the United States Probation Office in the District of Utah within 72 hours of his arrival in the United States.

DEFENDANT: Hector Villatoro-Acosta  
CASE NUMBER: DUTX 2:08-cr-00744-001

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ 0.00	\$ 0.00
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.



DEFENDANT: Hector Villatoro-Acosta  
CASE NUMBER: DUTX 2:08-cr-00744-001

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages \_\_\_\_ - \_\_\_\_

are the

Statement of Reasons,  
which will be docketed  
separately as a sealed  
document

**IN THE UNITED STATES DISTRICT COURT**  
**DISTRICT OF UTAH, CENTRAL DIVISION**

UNITED STATES OF AMERICA,  
  
Plaintiff,

-VS-

CESAR DURAN-FRIAS,  
  
Defendant.

**ORDER TO CONTINUE JURY TRIAL**

Case No. 2:08CR-749 TS

Based on the motion filed by the defendant and good cause appearing,

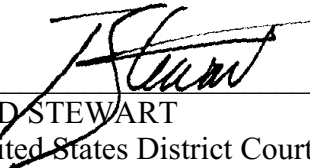
IT IS HEREBY ORDERED:

The Jury Trial in the above case is continued from January 20, 2009 to the 27th day of April, 2009, at the hour of 8:30 a.m.

Pursuant to the Speedy Trial Act, 18 U.S.C. § 3161 et seq., the Court finds that the ends of justice served by a continuance in this case outweigh the best interest of the public and the Defendant in a speedy trial in order to afford counsel for the Defendant and the Government additional time in which to complete plea negotiations in an attempt to resolve the case short of trial.

DATED this 13th day of January, 2009.

BY THE COURT:

  
\_\_\_\_\_  
TED STEWART  
United States District Court Judge

**United States District Court  
for the District of Utah**

**Criminal Pretrial Instructions**

The prosecution has an open file policy.

Issues as to witnesses do not exist in this matter, but defense counsel will make arrangements for subpoenas, if necessary, as early as possible to allow timely service.

Counsel must have all exhibits premarked by the clerk for the district judge before trial.

If negotiations are not completed for a plea by the plea deadline, the case will be tried.

In cases assigned to Judge Cassell, counsel are directed to meet and confer about the possibility of a plea, and before the deadline report to chambers whether the matter will proceed to trial.

# United States District Court

## CENTRAL DISTRICT OF UTAH

UNITED STATES OF AMERICA  
v.

### ORDER SETTING CONDITIONS OF RELEASE

ANDREW JOHN MULLEN

Case Number: 2:08-CR-845 CW

IT IS SO ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local or tribal law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U.S. attorney in writing of any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed as directed. The defendant shall next appear at (if blank, to be notified) \_\_\_\_\_

PLACE

on \_\_\_\_\_

DATE AND TIME

### Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (✓) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- ( ) (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of \_\_\_\_\_

dollars (\$ ) \_\_\_\_\_

in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

### Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community, it is FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

- ( ) (6) The defendant is placed in the custody of:  
(Name of person or organization)  
(Address)  
(City and state) (Tel.No.)

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: \_\_\_\_\_

Custodian or Proxy

- (✓)(7) The defendant shall:
- (✓)(a) maintain or actively seek verifiable employment, and provide records to PTS on a monthly basis to substantiate employment.
  - ( ) (b) maintain or commence an educational program.
  - (✓)(c) abide by the following restrictions on his personal associations, place of abode, or travel:  
maintain residence at the address reported to PTS. No change without prior permission of PTS.
  - ( ) (d) avoid all contact with the following named persons, who are considered either alleged victims or potential witnesses:
  - (✓)(e) report on a regular basis to the supervising officer as directed.
  - ( ) (f) comply with the following curfew:
  - (✓)(g) refrain from possessing a firearm, destructive device, or other dangerous weapon.
  - ( ) (h) refrain from excessive use of alcohol.
  - ( ) (i) refrain from any use or unlawful possession of a narcotic drug and other controlled substances defined in 21 U.S.C. §802 unless prescribed by a licensed medical practitioner.
  - ( ) (j) undergo medical or psychiatric treatment and/or remain in an institution, as follows:
  - ( ) (k) execute a bond or an agreement to forfeit upon failing to appear as required, the following sum of money or designated property
  - ( ) (l) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described money:
  - ( ) (m) execute a bail bond with solvent sureties in the amount of \$
  - ( ) (n) return to custody each (week)day as of \_\_\_\_\_ o'clock after being released each (week)day as of \_\_\_\_\_ o'clock for employment, schooling or the following limited purpose(s):
  - (✓)(o) surrender any passport to Clerk of Court within 24 hours of the release order.
  - ( ) (p) obtain no passport
  - ( ) (q) the defendant will submit to drug/alcohol testing as directed by the pretrial office. If testing reveals illegal drug use, the defendant shall participate in drug and/or alcohol abuse treatment, if deemed advisable by supervising officer.
  - ( ) (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the supervising officer.
  - ( ) (s) submit to an electronic monitoring program as directed by the supervising officer.
  - (✓)(t) no travel outside the State of Utah without prior permission of PTS.
  - (✓)(u) obtain no new lines of credit, not handle moneys of other parties, not seek investments from third parties, not to engage similar to alleged in the indictment without prior permission of PTS and subject to government review and approval. Defendant to meet with PTS and describe his business. Defendant to work the details out with the government and PTS to meet government satisfaction. Any purchases over \$5000 must be pre-approved by PTS.

**Advice of Penalties and Sanctions**

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both.
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in additions to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

**Acknowledgment of Defendant**

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.



Signature of Defendant

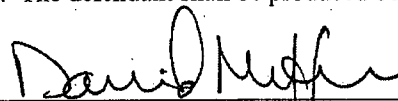
Address

City and State

Telephone

**Directions to the United States Marshal**

- (☒) The defendant is ORDERED released after processing.
- ( ) The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: January 13, 2009

Signature of Judicial Officer

**Magistrate Judge David Nuffer**

Name and Title of Judicial Officer

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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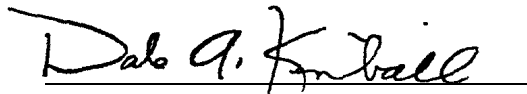
UNITED STATES OF AMERICA, : Case No.: 2:08CR000854DAK  
Plaintiff, :  
vs. : ORDER TO REASSIGN CASE  
LUIS ENRIQUE GALVAN-AYALA, : JUDGE DALE A. KIMBALL  
Defendant.

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Based on the United States' motion, and good cause appearing, this Court orders the clerk's office to reassign Case No. 2:08CR000854DAK to Judge Benson.

IT IS SO ORDERED.

Dated this 13<sup>th</sup> day of January, 2009.

  
DALE A. KIMBALL  
District Court Judge



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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

LUIS ENRIQUE GALVAN-AYALYA,

Defendant.

: Case No. 2:08-CR-854 DAK  
:  
: ORDER SETTING DISPOSITION  
: DATE AND EXCLUDING TIME  
: FROM SPEEDY TRIAL  
: COMPUTATION  
:

---

This matter came before this Court on 12/30/08 for the purpose of an initial appearance and arraignment. The defendant, who was present, was represented by Carlos Garcia . The United States was represented by Assistant United States Attorney Cy Castle. This defendant has been charged with Illegal Reentry of a Previously Removed Alien in violation of 8 U.S.C. § 1326.

The United States Attorney's Office for the District of Utah has indicated that this defendant meets the eligibility requirements for the "fast-track" benefit, namely, an additional reduction in his or her sentence. However, in order to derive the benefit of this reduction, the defendant must agree to certain conditions as set forth in the fast-track program.

This defendant did not, and is not required at this hearing, to enter a plea of guilty, nor is he/she required at this hearing to commit to enter a plea of guilty. However, the defendant, through counsel, has indicated that he/she wishes to preserve his/her opportunity to participate in the program, and has consented, in writing, to the initiation and disclosure to the Court and the parties of a pre-plea disposition report.

The defendant has requested that this Court set this matter for a status/change of plea hearing date approximately 55 days from the date of this initial appearance and arraignment. Counsel for the defendant has indicated that such will afford counsel the time necessary to meaningfully explain to the defendant the details of the fast-track program and its potential application to this case. Additionally, this time will provide the defendant an adequate opportunity to make an informed decision whether to participate in the program. Therefore, based upon the reasons set forth above, this Court ORDERS that this matter be scheduled for **2/26/09 at 2:30 pm** before **Judge Kimball**.

This Court finds, pursuant to 18 U.S.C. § 3161(h)(1)(I), that this period of delay is a result of the necessary consideration by the Court and parties of this proposed plea agreement. Additionally, this Court finds, pursuant to 18 U.S.C. § 3161(h)(8)(A), that the ends of justice outweigh the best interest of the public and defendant in a speedy trial and that, pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv), that the failure to grant such a continuance would deny counsel

for the defendant and the defendant the reasonable time necessary for effective preparation and for discussion and deliberation of the proposed plea agreement, taking into account the exercise of due diligence, and would therefore result in a miscarriage of justice. Based on the foregoing, IT IS HEREBY ORDERED that, pursuant to 18 U.S.C. § 3161(h), all time between **12/30/08** (the date of this appearance), and **2/26/09** (the date of the scheduled status hearing) is excluded from computing the time within which the trial of this matter must commence.

DATED this 12/30/08 day of December, 2008.

BY THE COURT:

A handwritten signature in cursive script, appearing to read 'Samuel Alba', written in black ink.

---

Samuel Alba  
United States Magistrate Judge

---

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

---

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JESUS BUSTILLO-PEREZ,

Defendant.

:  
:  
:  
:

Case No. 2:08-CR-858 DS

ORDER SETTING DISPOSITION  
DATE AND EXCLUDING TIME  
FROM SPEEDY TRIAL  
COMPUTATION

---

This matter came before this Court on 12/30/08 for the purpose of an initial appearance and arraignment. The defendant, who was present, was represented by Carlos Garcia . The United States was represented by Assistant United States Attorney Cy Castle. This defendant has been charged with Illegal Reentry of a Previously Removed Alien in violation of 8 U.S.C. § 1326.

The United States Attorney's Office for the District of Utah has indicated that this defendant meets the eligibility requirements for the "fast-track" benefit, namely, an additional reduction in his or her sentence. However, in order to derive the benefit of this reduction, the defendant must agree to certain conditions as set forth in the fast-track program.

This defendant did not, and is not required at this hearing, to enter a plea of guilty, nor is he/she required at this hearing to commit to enter a plea of guilty. However, the defendant, through counsel, has indicated that he/she wishes to preserve his/her opportunity to participate in the program, and has consented, in writing, to the initiation and disclosure to the Court and the parties of a pre-plea disposition report.

The defendant has requested that this Court set this matter for a status/change of plea hearing date approximately 55 days from the date of this initial appearance and arraignment. Counsel for the defendant has indicated that such will afford counsel the time necessary to meaningfully explain to the defendant the details of the fast-track program and its potential application to this case. Additionally, this time will provide the defendant an adequate opportunity to make an informed decision whether to participate in the program. Therefore, based upon the reasons set forth above, this Court ORDERS that this matter be scheduled for **2/25/09 at 2:30 p.m.** before **Judge Sam**.

This Court finds, pursuant to 18 U.S.C. § 3161(h)(1)(I), that this period of delay is a result of the necessary consideration by the Court and parties of this proposed plea agreement. Additionally, this Court finds, pursuant to 18 U.S.C. § 3161(h)(8)(A), that the ends of justice outweigh the best interest of the public and defendant in a speedy trial and that, pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv), that the failure to grant such a continuance would deny counsel

for the defendant and the defendant the reasonable time necessary for effective preparation and for discussion and deliberation of the proposed plea agreement, taking into account the exercise of due diligence, and would therefore result in a miscarriage of justice. Based on the foregoing, IT IS HEREBY ORDERED that, pursuant to 18 U.S.C. § 3161(h), all time between **12/30/08** (the date of this appearance), and **2/25/09** (the date of the scheduled status hearing) is excluded from computing the time within which the trial of this matter must commence.

DATED this 12/30/08 day of December, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Samuel Alba', is written above a horizontal line.

Samuel Alba  
United States Magistrate Judge

Matthew R. Lewis, Esq. (7919)  
D. Zachary Wiseman, Esq. (8316)  
RAY QUINNEY & NEBEKER P.C.  
36 South State Street, Suite 1400  
Salt Lake City, Utah 84111  
Telephone: (801) 532-1500  
Facsimile: (801) 532-7543

FILED  
U.S. DISTRICT COURT

2009 JAN 13 A 10:05

DISTRICT OF UTAH

BY: \_\_\_\_\_  
DEPUTY CLERK

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OFFICE OF  
JUDGE TENA CAMPBELL

Troy A. Wallin, Esq. (*Pro Hac Vice*)  
WALLIN HARRISON PLC  
1425 South Higley Road, Suite 104  
Gilbert, Arizona 85296  
Telephone: (480) 240-4150  
Facsimile: (480) 240-4151

*Attorneys for Plaintiff*

---

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

---

TEKVET TECHNOLOGIES CO., a Nevada  
corporation,

Plaintiff,

v.

RANDY CONKLIN,

Defendant.

**ORDER GRANTING  
STIPULATED MOTION TO VACATE  
HEARING, PERMIT PLAINTIFF TO  
AMEND COMPLAINT, AND TO AMEND  
SCHEDULING ORDER**

Case No.: 2:08cv00018

Judge: Tena Campbell

Based upon the stipulated motion of the parties, and for good cause appearing, IT IS

HEREBY ORDERED:

1. TekVet's Motion for Leave to File First Amended Complaint is hereby  
GRANTED. TekVet is granted leave to file its First Amended Complaint in the  
form attached to its motion. Once TekVet has filed its First Amended Complaint,  
Defendant shall have 30 days to answer.
2. The hearing set for January 13, 2009 at 3 p.m., to address TekVet's motion is  
vacated.

3. The fact discovery period in this matter is hereby extended to March 31, 2009.

All other subsequent deadlines in the Scheduling Order are hereby extended by 30 days.

DATED this 13 day of Jan, 2009.

BY THE COURT:

  
\_\_\_\_\_  
JUDGE TENA CAMPBELL  
United States District Court Judge



HOLME ROBERTS & OWEN LLP  
Jay D. Gurmankin #1275  
299 South Main Street, Suite 1800  
Salt Lake City, Utah 84111-2263  
Telephone: (801) 521-5800  
Facsimile: (801) 521-9639

Attorney for Plaintiff

---

IN THE UNITED STATES JUDICIAL DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

---

KENNETH E. PONTIOUS NON-GST  
MARITAL TRUST,

Plaintiff,

v.

ROBERT MCKEE, an individual; STEPHEN  
O. Z. FINKEL-MINKIN, an individual; and  
John Does 1-10,

Defendants.

ORDER  
REOPENING CASE

Case No. 2:08cv0047

Magistrate Brooke C. Wells

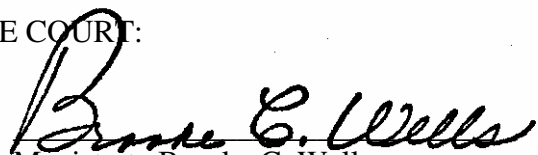
Based on the Stipulation of the parties and good cause appearing, therefore the Court hereby rescinds the Order dismissing case dated January 7, 2009, and reinstates the case.

Counsel for the parties are to file a report to the Court on the status of the litigation within 30 days of the January 12, 2009 Stipulation.

DATED this 12th day of January, 2009.

BY THE COURT:

By:

  
Magistrate Brooke C. Wells

*APPROVED AS TO FORM:*

HOLME ROBERTS & OWEN LLP

By: /s/ Jay D. Gurmankin  
Name: Jay D. Gurmankin  
Title: Attorneys for Plaintiff

By: /s/ Sean N. Egan  
Name: Sean N. Egan  
Title: Attorney For Robert McKee

CERTIFICATE OF SERVICE

I hereby certify that on this 12<sup>th</sup> day of January, 2009, I electronically filed the foregoing ORDER REINSTATING CASE with the Clerk of Court using the CM/ECF system, which sent notification of such filing to the following:

Sean N. Egan  
215 South State Street, Suite 950  
Salt Lake City, Utah 84111  
*Attorney for Robert McKee*

/s/ Jay D. Gurmankin

WILLIAM F. HANSON (3620)  
Assistant Utah Attorney General  
MARK L. SHURTLEFF (4666)  
Utah Attorney General  
160 East 300 South, Sixth Floor  
PO BOX 140856  
Salt Lake City, Utah 84114-0856  
Telephone: (801) 366-0100  
Attorneys for Defendant Grey

---

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

---

TODD WALLACE,  
Plaintiff,

vs.

TODD GREY,  
Defendant.

**ORDER EXTENDING TIME FOR  
TODD GREY TO RESPOND TO  
PLAINTIFF'S OBJECTION TO  
MAGISTRATE JUDGE'S REPORT  
AND RECOMMENDATION**

Case No. 2:08-CV-00311-TS-PMW

Judge Ted Stewart


---

Defendant Todd Grey has filed *Todd Grey's Motion for Extension of Time To Respond to Plaintiff's Objection to Magistrate Judge's Report and Recommendation*. Based on his motion, the grounds and reasons set forth therein and good cause shown,

IT IS HEREBY ORDERED that Defendant Grey's motion is granted. He has to and including January 27, 2009, to respond to Plaintiff's objection to Magistrate Judge Warner's report and recommendation.

Dated this 13th day of January, 2009.

BY THE COURT:



---

TED STEWART  
United States District Judge

**CERTIFICATE OF SERVICE**

I certify that, on January 12, 2009, I electronically filed the foregoing, proposed **ORDER EXTENDING TIME FOR TODD GREY TO RESPOND TO PLAINTIFF'S OBJECTION TO MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**, using the Court's CM/ECF system, and mailed a true and correct copy thereof by United States mail, postage prepaid, to the following:

Todd Wallace  
266 Coventry Place, N.E.  
Calgary, Alberta  
Canada T3K4C4  
*Pro Se*

/s/ Yvonne Schenk

FILED  
U.S. DISTRICT COURT

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2009 JAN 12 P 3:01

DISTRICT COURT

BY: DEPUTY CLERK

HOLME ROBERTS & OWEN LLP  
Blaine J. Benard #5661  
Carolyn Cox #4816  
299 South Main Street, Suite 1800  
Salt Lake City, Utah 84111-2263  
Telephone: (801) 521-5800  
Facsimile: (801) 521-9639

*Attorneys for Pacific Life & Annuity Company and United Healthcare Services, Inc.*

IN THE UNITED STATES JUDICIAL DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

IHC HEALTH SERVICES, INC. d/b/a UTAH  
VALLEY REGIONAL MEDICAL CENTER,

Plaintiff

v.

PACIFIC LIFE & ANNUITY COMPANY  
AND UNITED HEALTHCARE SERVICES,  
INC.

Defendant

**ORDER OF DISMISSAL WITH  
PREJUDICE**

Case No. 2:08 CV 412

Judge Tena Campbell

Based on the stipulation of the parties, IT IS HEREBY ORDERED, ADJUDGED AND  
DECREED THAT the above captioned matter is dismissed in its entirety, with prejudice, each  
party to bear their or its own costs and attorneys' fees.

DATED this 12 day of January, 2009.

  
HONORABLE TENA CAMPBELL

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION 2009 JAN 12 P 1:21

UNION TELEPHONE COMPANY, A WYOMING  
CORPORATION,


Plaintiff,

vs.

PUBLIC SERVICE COMMISSION OF UTAH,  
A REGULATORY AGENCY OF THE  
STATE OF UTAH, TED BOYER, RICHARD M.  
CAMPBELL, AND RON ALLEN, INDIVIDUALS,  
IN THEIR OFFICIAL CAPACITIES  
AS COMMISSIONERS OF THE PUBLIC SERVICE  
COMMISSION and QWEST CORPORATION,  
A COLORADO CORPORATION,

Defendants.

DISTRICT OF UTAH

BY:   
DEPUTY CLERK

ORDER  
ESTABLISHING  
BRIEFING  
SCHEDULE

Case No. 2:08 cv 495

Judge Dale A. Kimball

This matter is before the Court upon the Joint Motion of the Parties to this proceeding requesting that the Court establish a briefing and hearing schedule in the above captioned matter. The Court having reviewed the Joint Motion and good cause being shown therein, and being otherwise fully advised in the premises,

HEREBY ORDERS THAT:

1. The Public Service Commission of Utah (Commission) shall file an index of the record in the proceeding below by January 12, 2009.
2. Union Telephone Company (Union) shall file its opening brief by February 16, 2009. The brief may include, as an appendix, copies of those parts of the record before the Commission that Union wishes the Court to review in support of its position on appeal.
3. The Commission and Qwest Corporation shall file their responsive briefs by March 23, 2009. The briefs may include, as an appendix, copies of



those parts of the record before the Commission that they wish the Court to review in support of their positions on appeal.

4. Union shall file its reply brief by April 13, 2009.
5. The Court shall hold a hearing to receive oral argument from the Parties on their respective positions on the 27<sup>th</sup> day of May, 2009 at three o'clock in the District Court.


DATED this 12<sup>th</sup> day of January, 2009.

By the Court:

  
Dale A. Kimball  
United States District Judge


Approved as to form:

Union Telephone Company

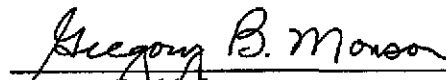
  
Bruce S. Asay  
Associated Legal Group, LLC  
1807 Capitol Ave., Ste. 203  
Cheyenne, WY 82001

Stephen F. Mecham  
Callister, Nebeker & McCullough  
10 E. South Temple, Suite 900  
Salt Lake City, UT 84133-1101

Public Service Commission of Utah

  
Sander Mooy  
Ruben H. Arredondo  
Heber M. Wells Building, 4<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84111

Qwest Corporation

  
Thomas Dethlefs  
Qwest Services Corporation  
1801 California Street, 10<sup>th</sup> Floor  
Denver, CO 80202

Gregory B. Monson  
Stoel Rives LLP  
201 South Main Street, Suite 1100  
Salt Lake City, UT 84111

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2009 JAN 13 A 10:05

DISTRICT OF UTAH

BY: \_\_\_\_\_  
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OFFICE OF  
JUDGE TENA CAMPBELL

Milo Steven Marsden (4879)  
[marsden.steve@dorsey.com](mailto:marsden.steve@dorsey.com)  
William B. Prince (2653)  
[prince.william@dorsey.com](mailto:prince.william@dorsey.com)  
Jennie B. Garner (5486)  
[garner.jennie@dorsey.com](mailto:garner.jennie@dorsey.com)  
Wells S. Parker (11327)  
[parker.wells@dorsey.com](mailto:parker.wells@dorsey.com)  
**DORSEY & WHITNEY LLP**  
136 S. Main Street, Suite 1000  
Salt Lake City, Utah 84101  
Telephone: (801) 933-7360  
Facsimile: (801) 933-7373

*Attorneys for Plaintiffs*

---

**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

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LARAMIDE RESOURCES, LTD., a Canadian  
corporation; HOMESTAKE MINING  
COMPANY OF CALIFORNIA, f/k/a  
HOMESTAKE MINING COMPANY, a  
California corporation,

Plaintiffs,

v.

WILLIAM RICHARDSON, an individual; JOHN  
W. REAMS, an individual; TOMCAT MINING  
CORPORATION, a Colorado corporation;  
F. BENNION REDD, an individual; TOMMY  
DON HUDSON, an individual; CHRISTOPHER  
LEE BOUSUM, an individual; H. CLAY  
HUDSON, JR., an individual; and CONSTANCE  
HENRY,

Defendants.

**ORDER GRANTING  
EXTENSION OF TIME TO  
RESPOND TO COUNTERCLAIM OF  
JOHN W. REAMS AND  
TOMCAT MINING CORPORATION**

Civil No.: 2:08-cv-779

Judge Tena Campbell

---

Pursuant to the parties' Stipulation for Extension of Time to Respond to Counterclaim of John W. Reams And Tomcat Mining, and good cause appearing, it is hereby

ORDERED that Plaintiffs shall have an extension of time through and including Tuesday, January 20, 2009, in which to answer or otherwise respond to the Counterclaim of John W. Reams And Tomcat Mining.

DATED this 12<sup>th</sup> day of January, 2009.

BY THE COURT:



Tena Campbell  
District Court Judge

Approved as to form:

STOEL RIVES, LLP

/s/ Marc T. Rasich

Marc T. Rasich

Attorney for Defendants John W. Reams and  
Tomcat Mining Corporation

(Signed by Filing Attorney with  
permission of Defendants' Attorney)

FILED  
U.S. DISTRICT COURT

2009 JAN 12 P 1:21

DISTRICT OF UTAH

BY:   
DEPUTY CLERK

UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

JEANNE MARSHALL,

Plaintiff,

v.

SIEGFRIED & JENSEN, P.C., a Utah law  
firm; JOHN DOES I-X, and JANE DOES  
I-X, inclusive,

Defendants.

**ORDER REGARDING  
REPLACEMENT OF EXHIBITS TO  
COMPLAINT**

CASE NO.: 2:08-CV-00923

Judge: Dale A. Kimball

The Court, having reviewed the stipulation of the parties that that the exhibits to the Complaint (Exhibits A through O), inadvertently filed in error without redaction of personal information regarding Plaintiff, may be replaced with substituted exhibits that redact that information, and in order that the mandates of FRCP 5.2 may be met herein, and other good cause appearing therefor,

IT IS HEREBY ORDERED that the exhibits to the complaint (Exhibits A through O) filed herein on November 26, 2008 may, and the same hereby should, be replaced in the Court's file and on the Court's website by the substitute exhibits prepared by Plaintiff's counsel, such substitute exhibits being identical to those exhibits originally filed herein with the sole exception that Plaintiff's personal information is redacted.

In connection herewith, the Clerk of the Court is directed to withdraw any original paper exhibits from the court's file and to destroy the same, and to thereupon replace those exhibits with

1 the substituted exhibits provided by Plaintiff's counsel. The Clerk is further ordered to withdraw  
2 the original exhibits from display on the court's website, and to replace them with those substitute  
3 exhibits provided by Plaintiff's counsel.  
4

5  
6 DATED this 12<sup>th</sup> day of January, 2009

7  
8   
9 DALE A. KIMBALL, U.S. DISTRICT JUDGE

10  
11 APPROVED AS TO FORM AND SUBSTANCE:

12  
13 RANDALL K. EDWARDS, PLLC

14 Randall K. Edwards  
15 By: Randall K. Edwards  
16 The Kearns Building  
17 136 South Main Street, Suite 700  
18 Salt Lake City, Utah 84101  
801-328-0300 (office)  
801-328-4822 (facsimile)  
Attorney for Plaintiff

19 RAY QUINNEY & NEBEKER P.C.

20  
21 Frederick R. Thaler  
22 By: Frederick R. Thaler  
23 36 South State Street, Suite 1400  
Salt Lake City, Utah 84145-0385  
801-532-1500  
Attorney for Defendant  
24  
25  
26  
27  
28

ANDERSON & KARRENBORG  
Thomas R. Karrenberg (3726)  
Stephen P. Horvat (6249)  
Jennifer R. Eshelman (9155)  
50 West Broadway #700  
Salt Lake City, Utah 84101  
Telephone: (801) 534-1700  
Facsimile: (801) 364-7697  
shorvat@aklawfirm.com

*Attorneys for Defendants*

---

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

---

MICHAEL J. McGRAW, an individual

Plaintiff,

vs.

UBS BANK USA, a corporation, UBS  
FINANCIAL SERVICES, INC., a corpora-  
tion, and JOHN BELFORD, an individual,

Defendants.

ORDER GRANTING STIPULATED  
JOINT MOTION FOR EXTENSION OF  
TIME TO RESPOND TO COMPLAINT

Case No. 2:08-cv-960-PMW

Magistrate Judge Paul M. Warner

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Based upon the stipulation of Plaintiff, the joint motion of the parties, and for good cause appearing, the Stipulated Joint Motion for Extension of Time to Respond to Complaint is GRANTED. Defendants shall answer, move, or otherwise respond to Plaintiff's Complaint on or before February 12, 2009.

DATED this 13th day of January, 2009.

BY THE COURT:



---

PAUL M. WARNER  
United States Magistrate Judge

**United States District Court  
for the District of Utah**

**Criminal Pretrial Instructions**

The prosecution has an open file policy.

Issues as to witnesses do not exist in this matter, but defense counsel will make arrangements for subpoenas, if necessary, as early as possible to allow timely service.

Counsel must have all exhibits premarked by the clerk for the district judge before trial.

If negotiations are not completed for a plea by the plea deadline, the case will be tried.

In cases assigned to Judge Cassell, counsel are directed to meet and confer about the possibility of a plea, and before the deadline report to chambers whether the matter will proceed to trial.